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in all kinds of Actions, Reall, Personall, and Mixt; very
Necessary to be known, and of excellent Use.

TOGETHER.

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and also diverse Points of Great Learning, and various Notes
and Cases to illustrate the same.

As they were Drawn, Entred, and Taken in the times of those Famous
PROTHONOTARIES of the Court of

COMMON PLEAS,

{ RICHARD BROVVNLOVV, } { JOHN GULSTON, }
{ ROBERT MOYLE, } { THOMAS CORY, } Esq^{rs}.

Collected and Published for the Use and Benefit of
the Students and Practicers of

Ben: Taylor L A W, *K*

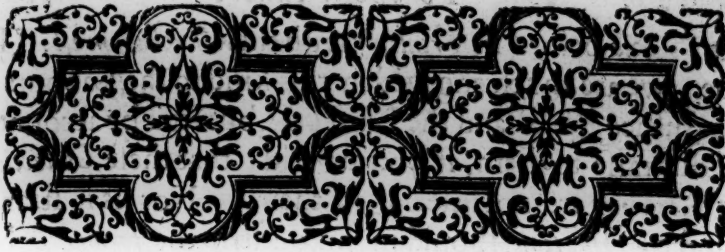
By *JOHN HERNE*.

*With exact Alphabetical Tables of all the Principall Matters therein
contained.*

L O N D O N,

Printed for *Henry Twysford, Thomas Dring, and Timothy Twysford,*
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TO THE READER.



Ere it not that I feared to incur a Note of *Singularity*, you had received this Book without a Preface: For to commend the *Formes and Order of good Pleading*, what can I say more then the Learned *Littleton* hath long since done, *viz.* That it is the *most honorable, laudable, and profitable thing in our Law?* And to set forth the *Worth* of these I here publish, were to pick your thanks, and obliquely to commend my self; besides, who knowes not that the greatest *Eulogies* are indifferently prefixed to *Good and Bad?* But since *Custom* will have it that somewhat must be said, I do aver to you, that the *Precedents* here presented, are the choicest that the *modern Times* have afforded, I mean those of the *Learned and Well-experienced Formalists*, *Mr. Brownlow*, *Mr. Moyle*, *Mr. Gulston*, and *Mr. Cory* (by whose Excellency in that *Faculty* the profession of the *Law* hath received much *Grace* If any man shall be so incredulous as to question whether these *Entries* are *genuine*, I referre him to the *Number-Roll*, which points out most of them: If he be not convinced of their great *Use and Utility*, I must tell him, he dissents from the opinion of sundry of the best and most skilful *Clerks* now living, who having perused all, and compared most of them with the *Originals*, have stamped

To the Reader.

our *Volume*, before its *Printing*, with their *Probatum est*. 'Tis true, we are much engaged in this kind to the Labours of Mr. Justice *Rastal* and the Lord *Coke*, but let it be accounted no dispraise to them, if you are told; that these *Collections* for *Learning* are not inferior to theirs. Nor is it strange that the *present time* should in this outstrip the *former*; My Lord *Coke* in the Preface to his Book of *Entries*, observeth it was so in the times next succeeding to *Edward* the third (in whose times there were yet many famous *Lawyers*) and so by degrees it mended downwards: And if new Cases arise every day, how can it be but with them new *Formes* must arise also? So that that which discommends other Learning, NOVELTY, is the Excellency of this. I wish the studious Reader, by joyning of this with his Book-Cases, may attain adue proficiency in *Knowledge*, and that the practising *Attorney* or *Clerk* may find *Presidents* adapted to his *Clyents* Cause, which if they obtain (as without doubt they will) their *Thankes* is due to the *Manes* of those Learned *Prothonotaries* for the *Composure*, if there be any due to me, it is only for the Publication.

Farewell.

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The Table.

<i>Utlary.</i>		<i>Wast.</i>
An <i>Utlary</i> reversed by an Administratrix which was obtained against her interest.	834	Count in Wast against Tenant for life by Will, 837 Wast by a Tenant who hath an Estate by Assignment against the Tenant for years, 838
<i>Warrantia Charta.</i>		VWast against a Tenant by the Curtesie, ib. Writ to enquire of Wast by default, 839 Wast upon Feoffment to uses, 840 Waste by Tenants in Common, ib.
W arrantia Charta,	835 and 836	Plea in Wast by the Tenant for years, who prays to be admitted to defend the Action upon the default of the Tenant for life, ib.

F I N I S.

1. The first part of the table is a list of the names of the persons who have been elected to the office of Mayor of the City of New York since the year 1784. The names are arranged in alphabetical order, and the year of election is given in parentheses after each name. The list is as follows:

Name	Year of Election
John Adams	(1784)
John Jay	(1784)
John Jay	(1785)
John Jay	(1786)
John Jay	(1787)
John Jay	(1788)
John Jay	(1789)
John Jay	(1790)
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John Jay	(1888)
John Jay	(1889)
John Jay	(1890)
John Jay	(1891)
John Jay	(1892)
John Jay	(1893)
John Jay	(1894)
John Jay	(1895)
John Jay	(1896)
John Jay	(1897)
John Jay	(1898)
John Jay	(1899)
John Jay	(1900)



THE PLEADER,

OR

Speciall Entryes, of all Sorts of Declarations, Pleas, and Judgements.

In all Kindes of Reall, Personall, and Mixt
ACTIONS.



AD the aforesaid F. by J. T. his Attorney cometh and defendeth the force and iniury when, &c. And prayeth iudgement of the Writ aforesaid, because he saith That the day of obtaining of the Originall Writ of the sayd D. the aforesaid C. to whom the said F. is supposed to have been Heire, was living and in full life (that is to say) at C. aforesaid: And this he is ready to verifie, whereupon he prayes iudgment of the same Writ, &c.

Abatement for an heir, for that the originall was Purchased before the brother dyed.

Henden.

AD the aforesaid R. by P. J. his Attorney comes, &c. and prayes iudgement of the Declaration aforesaid, because he saith, That the aforesaid R. now being Plaintiff, is now within the age of one and twenty yeares. (to wit) of eighteen years and no more, and that the said R. by F. G. his Attorney in Court here in the said Plea hath declared, where by the Law of the Land, the same R. by his next freind in the said Court here admitted, ought to have declared, and this he is ready to verifie, whereupon in as much as the said R. being within age by F. G. his Attorney; in that Plea in the sayd Court here hath declared, the same R. prayes Iudgment of the said Declaration, &c.

A plea in Abatement when an Infant brings the action.

Ward.

AD the said T. by J. G. his Attorney, comes and prayes Iudgement of the Writ aforesaid, because hee saith, that he is the same person against whom the said K hath brought her Writ aforesaid, by the Name of K. W. otherwise S Widow, and that the said K is named Willen otherwise Sander, and by the same name of K W otherwise S the day of the obtaining of the Originall writ of the said K and alwaies afterwards hitherto, she hath been known and called, and by the same name of K W otherwise S against the said T in her Declaration aforesaid now hath declared, without that, that the said Katharine is named or called Katharine Williams, otherwise Sanders, or by the same name of K W otherwise S hath been at any time known or called, and this he is ready to verifie, whereupon he prayes Iudgement of the writ aforesaid, &c.

Abatement for that the Plaintiff had one name in the writ, and another name in the Count.

AD the said Humphrey, by F G his Attorney, comes and prayes Iudgement of the writ aforesaid, because he saith, that the Name of Baptisme of the said Agnes, in the Writ aforesaid named is Anne, and not Agnes as the said A and Agnes his wife have above declared, and this he is ready to verifie, whereupon he prayes Iudgement of that writ, and that the same Writ be quashed, &c.

Mistake in Baptism, pleaded in abatement.

A Plea in Abatement, for that there are two Executors Plaintiffs, and one proves the Testament, and the other doth not prove it, and he who hath proved it brings the Action, and doth not summon or sever the other.

A Plea in Abatement to a Declaration, for that the Plaintiff had purchased a former Original, upon which he declared against the Defendant, and after purchases a new Original and declares *De novo* for the same debt, whereunto the Plaintiff replies, no such Record.

And the sayd Richard by E. W. his Attorneys comes and prays iudgement of the Writ aforesaid, because he saith, That the sayd R. by his said Testament here in Court shewed forth, did constitute and ordaine one John M. living and in full life, being Co-Executor with the aforesaid J. D. of the aforesaid Testament of the said R. which said J. M. from the time of the death of the said R. untill the day of obtaining of the Originall Writ of the said J. D. the executing of that Testament hath not renounced, but Co-executor with the same R. of the Testament aforesaid, the day of the said Originall Writ, he hath been and still is : And this he is ready to verifie, whereupon for as much as the aforesaid J. M. being Co-executor with the sayd J. D. as aforesaid, in the said Writ, together with the said J. D. above Plaintiff is not named, the same R. prays iudgement of that Writ, &c.

And the said M. by G. M. her Attorney, comes and defends the force and iniury, when, &c. And saith, That the aforesaid E. to his Declaration aforesaid, ought not to be answered, because she saith, That the aforesaid E. after the death of the said G. as Executor of the Testament of the same G. at another time, by an Originall Writ of the said Lord the King, forth of his Chancery at Westminster in the County of Middlesex then being, to the Sheriff of Essex directed, and before the Justices of the said Lord the King, of the Bench here (that is to say) at Westminster aforesaid, returnable after the death of the said E. B. did implead her the said Joane then Administratrix of the goods and chattells, &c. who dyed intestate, as it was said, of that that the same Joan should render to the same E. forty pounds, which from him she then unjustly detained, &c. And thence the said Joan afterwards, (that is to say) in the Term of Easter, in the tenth year of the Reigne of the said Lord the King that now is, in the same Court here, before Edward Coke Knight, and his Associates, then the Justices of the same Lord the King of the Bench here (that is to say) at Westminster aforesaid, by one R. F. then her Attorney appearing, the aforesaid E. by one D. H. then his Attorney, then in declaring against her the said Joane in a plea of debt upon the aforesaid Writing Obligation now here in Court shewed forth, did say, that whereas the aforesaid Edward in his life time, the last day of June in the nine and thirtieth year of the Reigne of the Lady Elizabeth, late Queen of England at A. by his certain Writing obligatory, had granted himself to be holden to the aforesaid G. in the aforesaid forty pounds to be paid to the same G. when he should be thereunto requested. Nevertheless the said E. in his life time, and the aforesaid Joan, to whom the Administration of all the goods and chattells which were of the said E. at the time of his death, after the death of the same E. was committed, although oftentimes requested, the aforesaid forty pounds to the said G. in his life time, or to the same E. after the death of the same E. had not rendered, but those to them to render they had denied, and the said I. those to the same E. still to render did deny, and then unjustly detained, as then he said, whereupon he then said, that he was the worse, and had damage to the value of twenty pounds, and thereof he then brought suit, &c. And he did then shew forth in Court as well the Writing aforesaid which the debt aforesaid, in form aforesaid, did witnesse, as the Letters Testamentary of the aforesaid G. by which it did sufficiently appear to the Court here, the aforesaid E. to be the Executor of the Testament aforesaid, and thereof to have the Administration &c. And the said Joan by the aforesaid R. F. then her Attorney, did then defend the force and iniury when &c. And did then demand the hearing of the Writing aforesaid, and it was read unto her, &c. And thence did then also demand the hearing of the Condition of the same Writing, and it was then read unto her in form following, The Condition &c. Which being read and heard, the same Joan then prayed licence to speak together thereof here, untill in the morrow

morrow of the Holy Trinity, and had it &c: The same day was then given to the said E here &c: as by the Record thereof in Court here, that is to say, at Westminster aforesaid residing, it more fully appeareth, which said Plea still depends in the same Court here indiscussed and not discontinued, and this he is ready to verifie, whereupon hee prays Judgement whether the said E: to his Writ and Declaration aforesaid upon the aforesaid Writing obligatory now here in Court shewed forth, newly made and grounded, ought to be answered, &c:

Chiborne Sericant.

And the aforesaid E saith, That his Declaration aforesaid, by the reason before alledged ought not to be quashed, because he saith, that there is not any such Record of the plea aforesaid, in the said Court here remaining, as the said Joan hath above alledged, and this he is ready to verifie, whereupon he prays Judgement and his debt aforesaid, together with his Damages by occasion of the detaining of that Debt to him to be adjudged, &c:

No such Record.

Io: Sherley Sericant.

Mich. 14. E. 1. beginning 15 in the morning of All Soules before the Justices in Eyre in the County of Suffolk, Robert S. against Robert Bigod Earl of Norfolk, and Marshall of England, of a plea, wherefore he took the Greyhounds, &c. and counted of the taking of one Greyhound the day and 14 year of the King that now is, and another day one other: The Defendant prayed the hearing of the Originall Writ, and of the Pone. And because the Originall is of one Greyhound singly, and the Pone of two Greyhounds, Judgement was that the Writ shall abate, and that the Plaintiff shall take nothing by his Writ.

Abatement, for that the count is not maintained by the Writ.

And the aforesaid R: I. in his proper person, comes and saies, that as well of the regall dignity as of an ancient custome according to the same time out of mind used, the Residents in the Exchequer of the Lord the King from the accounts and businesses of the same Lord the King there alwayes intending, and their Ministers and Servants should not elsewhere be drawne into plea, then in the Exchequer aforesaid, as long as the same Exchequer should be open: And saith, That he is, and from the day of the obtaining of the Originall Writ of the sayd G. and A. was a Servant, and one of the Messengers attending on the most Noble F. C. Knight, Chancellor and Under-Treasurer of the Exchequer of the same Lord the King at Westminster. And this he is ready, &c. whereupon, &c.

A Plea in Abatement for a Messenger of the Exchequer by his Priviledge. Between Noble and Jenor.

And the aforesaid B. by F. G. his Attorney, comes and defends the force and injury when, &c. And prays the hearing of the Writ aforesaid, and it is read to him in these words, Charles, &c. which being read and heard, the same B. prays judgement of the Writ aforesaid, because he saith, that betwene the Writ aforesaid and the Declaration whereupon the aforesaid I. brought his Writ aforesaid against him the sayd B. by the name of Jo. Tre-lawney Knight and Baronet, and declared against him upon that Writ, by the name Jo. T. Armig. and not by the name of J. T. Knight and Baronet, as the sayd Jo. ought to have declared: And this he is ready to verifie, whereupon the sayd B. for the variance aforesaid, prays Judgement of that Writ, &c.

Abatement for variance between the writ and the count, for that he brings the Writ as a Knight, and counts as an Esquire.

And the aforesaid Richard by R. D. his Attorney, comes and defends, &c. And saies, That the aforesaid William to his Declaration aforesaid, ought not to be answered, because he saith, That at another time, to wit, the twelfth day of February in the twelfth year of the raigne of the Lord the King

An Outlawry pleaded in abatement upon an Exigent only, without an Originall and other proceffe.

Py Mr Serie-
ant Hutton, af-
terwards Ju-
stice of the
Common
Pleas.

King that now is, befoze the then Justices of the sayd Lord the King that now is here, that is to say, at Westminster in the County of Middlesex came one G. T. by the Name of G. T. and by due processe of Law obtained and prosecuted a certain Writ of the sayd Lord the King of Exigent, against the aforesaid W. to the then Sheriffs of London directed, by which sayd Writ, the same Lord the King did command the same then Sheriffs of London, that they should cause to be called the aforesaid W. by the name of W. H. late of B. &c. otherwise called W. H. &c. from Hustling to Hustling, untill according to the Law and Custome of the Realme of the said Lord the King that now is, of England, hee should be Outlawed if hee had not appeared, and if hee had appeared then they should him take, and cause to be safely kept, so that they might have his body befoze the Justices of the sayd Lord the King at Westminster aforesaid in the morrow of the Holy Trinity, to answer the aforesaid G. T. of a Plea, that hee should render to him sixty Shillings which he then owed to him and unjustly detained as hee said. And whereupon the sayd Sheriffs did certifie to the said Justices of the sayd Lord the King at Westminster aforesaid in eight dayes of the Purification of Blessed Mary then last past, that the said W. was not to be found in their Bapltwick. By Pretect of which said Writ, the aforesaid Sheriffs, namely, J. H. Knight, and J. T. Esquire, at the aforesaid morrow of the Holy Trinity, did return to the aforesaid Justices of the said Lord the King at Westminster aforesaid, that at the aforesaid Hustlings holden at Guild-Hall of the City of London, such a day and year the aforesaid W. was the fifth time called and did not appear, and at four Hustlings last pceding, the same W. was likewise called and did not appear, and because at none of the same Hustlings he did appear, therefore he the aforesaid W. such a day and year abovesaid was outlawed, and the same R. sayes, that the aforesaid W. is still so outlawed, and that the same Outlawry in its force and effect still remaineth not reverbered or adnulled, and this he is ready to verifie by the Record, whereupon hee prayes Judgement whether the said W. in this behalf ought to be answered &c.

TRin. 16. Jac. Rol. Brownlow, Between Pearse and Hammet, and the aforesaid T. by T. Howell his Attorneys, comes and defends &c. and prayes the hearing of the Originall Writ aforesaid, upon which the Declaration aforesaid is grounded, and it is read unto him in these words &c. Which being read and heard, the sayd T. prayes Judgement of the Declaration aforesaid, &c. because he sayth, that the sayd Declaration in manner and form aforesaid declared, is not warranted by the Originall Writ aforesaid, for that, that the aforesaid R. by the Writ aforesaid, supposeth that the sayd T. goods and chattells, to the value of twenty Shillings at L. lately found, did take and carry away, and by the Declaration aforesaid, the sayd R. supposeth that the aforesaid T. his Goods and Chattells, that is to say, one peece of beef, to the value, &c. at L. lately found, did take and carry away, and this, &c. whereupon hee prayes Judgement of the Declaration aforesaid, &c.

Jenoure Serieant

Property pleaded in abatement.
The Defendant avows for two Rams for damage feasant.

Davy against Turner, And the aforesaid John by Ambrose Turner his Attorney, comes and defends the force and injury, when &c. and as to the taking and detaining of one Ram of the aforesaid three Rams, the sayd John prayes Judgement of that Writ &c. because hee sayth, that the property of the Ram aforesaid, at the time of the taking of the Cattell aforesaid above supposed to be made, was in the same John, whereby the said John that Ram at the aforesaid time of the taking &c. did take and detain, as it was well lawfull for him, and this he is ready to verifie, whereupon he prayes, as to the taking and detaining of the same Ram, Judgement of that Writ, &c. And as to the taking of two Rams of the aforesaid three Rams residue, the sayd John in his

his own Right, doth well abowe the taking of the same two Rams in the aforesaid place in which &c. and justly &c. because he saith, that the same place in which it is supposed the taking of the aforesaid two Rams to be made, containeth, and at the aforesaid time in which it is supposed the taking of those Rams to be made, did contain in it self twenty Acres of Pasture, with the Appurtenances in B. aforesaid, and that long before the aforesaid time, in which, &c. one Ann C. Widdow, and I. C. &c. were seised of one Capitall Messuage, a hundred acres of Land &c. with the Appurtenances in the County aforesaid, wherof the aforesaid twenty Acres of Pasture with the Appurtenances in which &c. are, and at the aforesaid time in which &c. and also from the time of the contrary wherof &c. were parcell in their Demesne as of fee, and being so thereof seised, the said A and I afterwards, and before the aforesaid time in which &c. (that is to say) the five and twentieth day of O. in the second year of the Reign of the said Lord the King that now is, at B aforesaid did demise to the said John the Tenements aforesaid with the Appurtenances, wherof &c. to have and to occupy to himselfe and his Assignes, for and during the Terme of ninety & nine years, thence next following, fully to be compleat and ended, if the aforesaid I his wife, and F their daughter, or any of them should happen so long to live; by vertue of which Demise, the said I afterwards, and before the aforesaid time in which &c. (that is to say) the seven and twentieth day of O in the sixth year abovesaid, into the Tenements aforesaid with the Appurtenances, wherof &c. did enter, and was thereof possessed for the Terme aforesaid. And because the aforesaid two Rams at the aforesaid time, in which &c. were in the aforesaid twenty Acres of Pasture with the Appurtenances, in which &c. the grasse then there growing, feeding and Damage there doing, the said I in his own Right doth well abowe the taking of those Rams in the aforesaid place, in which &c. and justly &c.

Fr. Ashley Serjeant

P 12 Jac. Roll 541. Between Lambert and Skepp, A Plea in Abatement, no such in Rerum Natura.

M 3 and 4 Eliz. Roll 1350. The Writ abated, for that a Writ in the Writting Obligatory containing the sum of the debt hath no signification.

Trin. 4 Eliz. Roll 665 The Writ abated, for that he brought the Writ before the day of payment.

M. 8 Jac. Roll 2366 Abatement in Attaint for the Carle of Lincolne.

H 11. 4 Eliz. Roll 305. Wherefore with force and armes into one Messuage, &c. in S which the sayd S holdeth for a terme which is not yet past, of the Assignment of W K to which said W. I M Knight, and A his wife, the same for the sayd term have demised, he did enter &c. The Defendant comes and defends &c. and says, that after the last continuance of the plea, (to wit) after eight dayes of Saint M last past, from which day the Action aforesaid was last continued here untill to this day (that is to say) in eight dayes of Saint Hillary, and before the same eight dayes of Saint Hillary, to wit, the tenth day of November last past, the aforesaid Plaintiff into the Tenements aforesaid with the appurtenances did enter, and this he is ready to verifie, whereupon he prays Judgement of the Writ aforesaid, &c.

Abatement of a Writ in ejectment of Farm, for that the Plaintiff after the last continuance entred into the Tenements upon a count by an assignee of a Lessee for years.

In an action brought by a Feme sole, the Defendant pleads in abatement of the Writ, that the Plaintiff is Covert de baron the day of the writ purchased:

H 11. 11 Jac. Roll. c. Brownlow Between Pick and Blunt, And the aforesaid Richard by G. Wadland his Attorney, comes and prays Judgement of the writ aforesaid, because he saith, that the aforesaid Joan the day of the obtaining of the Original writ of her the sayd Joan (that is to say) the first day of J in the twelfth year of the Reign of the sayd Lord the King, and continually

timnally afterwards was and still is, covert of one William Clarke her Husband, that is to say, at London in the Parish and Ward aforesaid: And this he is ready to verifie, whereupon he praves judgement of the Writ aforesaid by the same. I by the name of J. P. Widow as a feme sole obtained.

Tho. Harris.

Villinage
pleaded indif-
ability of the
Plaintiff.

H. 3 H. 6. roll.
136.

Tr. 9. Jac. roll.
1503.

Tr. 10 Jac. roll.
716.

M 4 and 5 Eliz Roll 908 And the aforesaid Defendant by A B &c. And saith, That the aforesaid Plaintiff to this Writ ought not to be answered, because he saith, That the said Plaintiff is, and at the aforesaid time in which it is supposed the Trespas aforesaid to be done, was the Villein of the same Defendant, belonging to his Hanno of B in the County of D of which said Hanno with the appurtenances the said Defendant was seised in his demesne as of fee: And that the same Defendant and all those whose estate he now hath, of and in the Hanno aforesaid with the appurtenances, were seised the aforesaid Plaintiff, and all his Ancestors as Villeins belonging to the Hanno aforesaid, from the time that the memory of men is not to the contrary thereof: And this he is ready to verifie, whereupon he prayeth judgement, whether the aforesaid Plaintiff to his Writ aforesaid ought to be answered, &c.

And the aforesaid Plaintiff saith, That he neither from an answer to his writ aforesaid, nor from his Action aforesaid, against the aforesaid Defendant to be had by any things by the said Defendant to the same Plaintiff objected, ought not to be delayed or excluded, because he saith, that he is a freeman and of a free Condition, and not the Villein of the said Defendant belonging to the Hanno aforesaid, as the said Defendant hath above objected, and he prayeth that this be enquired of by the Country, and the aforesaid Defendant likewise, wherefore &c.

Journes ac-
countes by
dearth.

T 10. H. 6. Roll. 119. And hereupon the same I. and A. say, that the aforesaid A. E. saying the Writ aforesaid, dyed, and pray Licence to purchase a better Writ, and they have it, &c. for that the aforesaid Tenants do not deny this, and the said Tenants may go thereof without day, &c.

Abatement in
Formedon.

P 41. Eliz. Roll. 8. c. Brownlow amongst the pleas of Lands, Somerset sh. be-
twixt Chick and others and Mildmage, formedon in Remainder of Lands in Queens camell, Abbots camell, and Downhead, and the aforesaid Humphrey defends his Right when &c. and sayes, that the place called Downhead in the Writ aforesaid above specified, is, and from the time whereof the memory of men is not to the contrary, was a hamlet of the Town of Abbots camell aforesaid, and this &c. whereupon he praves Judgmet of that Writ, &c.

Harrys.

Abatement of
the Originall
writ in *quare
impedit*.

P Asch. 3. Eliz. Roll 755. And the aforesaid Bishop, and other come and demand the hearing of the Originall writ, &c. and it is read to them in these words, Elizabeth &c. which being read and heard, the same Bishop and E. W. demand Judgmet of that Writ, because they say that the same Writ doth not agree with the form of the Writ in the Register, in such case ordained and provided, for that they say that the said Writ wants this word (Unjustly) and this they are ready to verifie, whereupon they demand Judgmet of that Writ, &c.

The Plaintiff
is non suit.

No such in re-
rum natura.

P Asch. 13 Jac. Rot. 728. Middlesex sh. Trespasse, the Defendant by his Attorney, comes and praves Judgmet of the Writ, because he sayes, that there is not, nor the day of the obtaining of the Originall Writ of the aforesaid Plaintiff there was any such person called, &c. in rerum Natura, as by the

the Writ aforesaid above is supposed, and this he is ready to verify, whereupon he prays Judgement of that Writ &c.

And the said A. R. the Attorney of the said Plaintiff, in the name, and for him the said R. his Master, saith, that the Writ aforesaid for the Reason before alleged ought not to be quashed, because he saith that there is, and the day of the obtaining of the Originall Writ of the same R. that is to say,

in the year abovesaid, there was such a person called &c. in Return natura, as by the Writ aforesaid above is supposed, that is to say, at &c. And this the same Attorney of the Plaintiff for the same Plaintiff, prays that it be enquired by the Country, and the aforesaid Defendant likewise, &c.

M 17. and 18 Eliz. Roll 513. Writ brought in Suffex of houses in Rye, The Defendant pleads in abatement of the Writ, that the Towne of Rye is within the Cinque Ports, where the Ducens Writ runneth not, upon which the Plaintiff demurs in Law, and it was adjudged against the Defendant that he should answer over.

P 4 Jac. Roll. 1617. Brownlow, London ff. Randall Barton of S. in the County of Lancaster Esquire, Sheriff of the County of Lancaster, otherwise called R B of S in the County of Lancaster Esquire, & John Crosse 2 l. 7 s. 4 d. &c. and counts against him, for the escape of one Anthony Barton upon a Testamentum cap. in debt, whereby an Action did accrue &c.

And the aforesaid Randall, by W. A. his Attorney, comes and prays the hearing of the Writ aforesaid, in form aforesaid obtained, whereupon the declaration aforesaid is made, and it is read to him &c. which being read and heard, the same R. prays Judgement of that Writ, for that, to wit, that it appeareth by the Declaration aforesaid grounded and made, to be upon a naked matter in Deed by the same Randall above supposed to be done, and not upon any matter contained in any Writing or Record, in which the same Randall is named R B of S in the County of Lancaster Esquire, and for that cause the same Writ ought to be obtained against him the said R by the name of R B of S in the County of Lancaster Esquire Sheriff of the County of L. only, and not by the name of R B of S in the County of Lancaster Esquire, Sheriff of the County of Lancaster, otherwise called R B of S in the County of Lancaster Esquire, as it is above thereof supposed, and this he is ready to verify, whereupon for the manifest Surplusage aforesaid in the said Writ contained, the same Randall prays Judgement, and that the same Writ by reason of that Surplusage be quashed, &c.

Hutton Demurrer by Nicholls.

P Mich. 2. H. 6. Roll. 132. 02 112. Brownlow, And the aforesaid Tenant by A. C. his Attorney, comes and saies, that where by the Writ aforesaid, it is supposed the Messuage and shops aforesaid, to have been given to the aforesaid Agnes the Daughter of John in Frank Marriage with the aforesaid W. son of the said R. to be made, by the same Writ the descent from the same Agnes and William to be set before, the name of the wife before the name of the husband, whereby the form &c. the name of the husband ought to be placed before the name of the wife, whereby for want of form he prays Judgement of that Writ &c.

Abatement for placing the name of the wife before the name of her husband.

And the said Demandant non-denying the Exception aforesaid for that cause and others in the Writ aforesaid contained, prays Licence to purchase a better Writ and hath it, &c. Therefore it is considered that the Demandant take

Merty.

Mercy.

take nothing by his Writ aforesaid, but be in Perry for his false Claim, &c.

Abatement in Hue and Cry, for that the Hundred in the Count is parcell of another Hundred.

Traverse that the Hundred in the Count is a Hundred by it selfe.

Issue upon the traverse.

A Declaration in Hue and Cry.

A plea in abatement of the writ, no such town or Hamlet.

Hill. 21. Eliz. Roll 1135. And the aforesaid men inhabiting, by W B their Attorney, come and defend the force and injury, when &c. and pray Judgment of the Writ aforesaid, because they say, that there is, and from the time whereof the memory of men is not to the contrary, there was in the said county of Gloucester, a Hundred called the seven Hundreds of Cirencester, and that by all the same time, the aforesaid Hundred in the Declaration aforesaid named Bright Woldesbarrow Hundred, for the time aforesaid, was and still is the Circuit of the Town and Lands in the County of Gloucester, commonly called B Hundred, and parcell of the said Hundred called the seven Hundreds. Without that, that the aforesaid Hundred in the Declaration aforesaid specified, is, and from the aforesaid time that &c. was a Hundred by it selfe, as the aforesaid W by his Writ and Declaration aforesaid above supposes, and this &c. whereupon he prays Judgment of that Writ &c.

And the aforesaid W as before saith, That the Hundred in the Declaration is a Hundred by it selfe, as &c. Issue thereupon, Judgment for the Plaintiff.

PAsc. 17 Jac. Roll 1765 Br: London ss: Edward Newport late of Stanfeild in the County of Hertf. Esquire, and Ann his Wife r. the Lord the King that now is, and Michael Chambers Gent. who as well for the Lord the King as for himself followeth, 220 l. &c. The Defendant appeared by a speciall Superseas.

And Edward Newport of Brent Pelham in the County of Hertford Esquire, and Ann his Wife by Edward Waller their Attorney, come and say, that they are the same persons against whom the aforesaid Michael, who as well &c. brought his Writ aforesaid by the Names of Edward Newport late of Stanfeild in the County of Hertford Esquire, and Ann his Wife, and pray Judgment of the Writ aforesaid, because they say, That in the aforesaid County of Hertford, there is not, nor the day of the obtaining of the Original Writ of him the said Michael, who as well &c. there was any such Town, Hamlet, or any other place known or called by the name of Stanfeild, as the aforesaid Michael who &c. by his Writ aforesaid supposeth, and this they are ready to verifie, whereupon in as much as the same Edward Newport and Ann are not named in certain of what Town or Hamlet the same Edward and Ann were or are inhabiting, according to the forme of the Statute in such case set forth and provided, they pray Judgment of that Writ, &c.

Harris.

Issue that there is such a Town, as &c.

H. 5. H. 5. Roll 105.

Abatement for misnaming of the degree of the Plaintiff, namely, by declaring as Esquire when he was Gent. Traverse.

H 31 H 6 Roll 122 Surrey ss. Thomas Codington late of London Gent. r. Thomas Codington Esquire in Trespasse.

When &c. And saith, that the aforesaid Thomas Codington, Plaintiff in the Writ aforesaid named, is, and the day of the obtaining of the Original Writ aforesaid, was a Gentleman, without that, that he is, or the same day was an Esquire, as by the Writ aforesaid it is supposed, and this &c. Judgment of the Writ aforesaid, &c.

And the said Thomas Codington Plaintiff, &c. ought not to be quashed, because

because he saith, that hee is, and the day of the obtaining of the same Writ, that is to say, the first day of A in the one and thirtieth year of the Reigne of the Lord the King that now is, was an Esquire, as by the Writ aforesaid it is supposed, and this he prays that it be enquired by the Country, &c. Ven: fa: and 2 s Pas: and baile found for the Defendant body for body.

H 3 Jac. Roll. 1826. ff. Which being read and heard, the same I prays Judgement of the Writ aforesaid thereof, because he says that the said I M W A R A and T W in the said writing indented, mentioned, are still alive and in full life, that is to say, at M aforesaid, and that the said I M ought to have named the said I W R and I jointly Plaintiffs with the said M in his Writ aforesaid, of the said Plea of the aforesaid 20 l. by virtue of the aforesaid Writing indented above required, and this &c. whereupon in so much as the aforesaid I M R and R T are not named jointly with the same M in the Writ aforesaid, the same I T prays Judgement of that Writ &c. and thereupon a Demurrer.

T Rin. 3 4 and 5 of Phillip and Mary Roll 88 And the aforesaid A in his own person, comes and says, that in the aforesaid County of Kent, there are two Towns called B that is to say, South B and North B and neither of them without addition of the same Town. Without that, that in the said County of Kent there is any such Town or Hamlet, or place out of the Town and Hamlet, called or known only without the same addition, as by the Writ aforesaid it is supposed, and this &c. whereupon he prayeth Judgement of that Writ &c.

P. 15. & 16 H
S Roll 164 &
H 14 H 6
Rolls 914 &
915.
See such in
the book of
Entries fol.
108 title
Breife En
Misnomer 12.

And the aforesaid C saith, that his Writ aforesaid for the reason before alleged ought not to be quashed, because he saith, that in the aforesaid County of Kent there is such a Town called B only, without addition of the same Town as by the Writ aforesaid it is above supposed, and this he prays that it be enquired by the Country, therefore twice &c.

T Rin. 8 H 6 Roll 109 In Trespasse against George T And hee who by the Writ aforesaid is named G in his own proper person, comes and says that hee is named John, and by that name he is known, and not G as by the Writ aforesaid it is supposed, and this &c. whereupon he prays Judgment of that Writ &c.

And the said Plaintiff says, that his writ aforesaid ought not to be quashed, because he says, that he who affirmeth himselfe to be named J is named G as &c. And this he prays that it be enquired by the Country &c.

H 8 Jac. Roll 2079 c. Brownlow Elsewhere as it appeareth in the Tearme of Easter, in the eighth year of the Reigne of the Lord the King that now is Roll 1062 it is contained thus, Dorset ff. Nicholas Morcombe &c. was attached to answer Josias Glover of a plea wherefore, whereas &c. and counts in battery, and the aforesaid Nicholas by R W his Attorney, comes &c. and prays an Imparance untill in the morrow of the Holy Trinity, and hath it, &c. the same day is given to the aforesaid I here &c. At which day here comes as well the said I as the aforesaid N by their Attornies aforesaid, and hereupon the same I prays that the aforesaid N may answer to his writ and Declaration aforesaid &c. And hereupon the aforesaid N says, that the said I to his writ aforesaid ought not to be answered, because he saith that the aforesaid I after the last continuance of the plea aforesaid (to wit) after the moneth of Easter, last past, from which day that Action was continued here untill to this day (that is to say) in the morrow of the Holy Trinity, and before this day, was and still is excommunicated, and he sheweth forth here in Court the

An excommu-
nication plea-
ded in Abate-
ment of the
writ after the
last continu-
ance

P 24 Eliz. Roll
1447.
H 4 Jac. Roll
2229.
T 2 Jac. Roll
1072.

Letters Patents of the Reverend Father in Christ, John by the Divine Providence Bishop of Bristol, which do witness this in these words, John by the Permission &c. and recite all the Letters of Excommunication verbatim, and he prayeth that the Action aforesaid may remain thereof without day untill &c.

R. Barker.

Whereupon the aforesaid I. saving to himself all & all manner of advantages, exceptions and allegations to the aforesaid plea of the said O. prayeth Licence to speak together thereof here untill in the Utes of Saint Michael, and hath it &c. The same day is given &c. and now here at this day, that is to say, at the aforesaid Utes of Saint Michael, come as well the aforesaid I. as the said N by their Attorneys aforesaid, and hereupon the same I. as before saving &c. prayeth a further Imparlance &c. and hath it two Continuances after. And upon this the same Josias saith, that after the aforesaid Sentence of Excommunication against him the said Josias in forme aforesaid given, and after the last Continuance of the plea aforesaid, that is to say, after the said Utes of Saint Michael, from which day the Action aforesaid was last continued here untill to this day, to wit in the Utes of Saint Hillary, and before this day, that is to say, the 14 day of J. in the abovesaid eighth year of the Reign of the Lord the King that now is, the said I. from the same Sentence of Excommunication, was and still is absolved and released, and to the communion of the faithful people of Christ, of the Sacraments of the Church restored. And he sheweth forth here in Court the Letters Patents of Thomas Nevill Doctor of Divinity, Dean of the Cathedrall and Metropolitane Church of Christ of Canterbury, and the Chapter of the same Church: To whom all and all manner of Jurisdiction Spirituall and Ecclesiasticall, which to the Arch-Bishop of Canterbury, the See being full did belong. The same See now being void is notoriously known to belong the same Absolution testifying, which do witness this in these words, Thomas Nevill Doctor &c. recite the whole Absolution verbatim, as by the same Letters Patents it more fully appeareth, and this &c. And that the aforesaid N may further answer to his Writ and Declaration aforesaid &c. whereupon it is said to the aforesaid Attorney of the said Nicholas that hee for the same his Master may answer to the said I. in the Action aforesaid, &c.

John Dodridge.

And hereupon the said N as before defends the force and injury when &c. and sayes that he is in nothing guilty &c.

P. 3. H. 6. fol.
40. pl. 6. San-
fords case doth
accord with
this president.

ACCOUNT.

ACCOUNT.

J. C. late of West-Mouſton in the County afozeſaid, Carrier, was ſummoned to answer I. B. of a plea that he render to him a reaſonable Account for the time that hee was Receiver of the monies of him the ſaid I. B. &c. and whereupon the ſame I. B. by Fr. G. his Attorney, ſaith, That whereas the afozeſaid I. C. had been Receiver of the monyes of him the ſaid I. B. from the firſt day of M. in the thirteenth year of the Raigne of the Lord the King that now is, untill the firſt day of M. in the ſeventeenth year of the Raigne of the Lord the King that now is, and by the ſame time had received of the monies of the ſame I. B. at W. by the hands of I. B. Clark, eight ſhillings and eight pence, and by the hands of W. Franke Clark, ſeven ſhillings and a penny, and by the hands &c. to render a reaſonable Account thereof to the ſame I. B. when hee had bene thereunto required. Nevertheleſſe, the afozeſaid I. C. although often required, the ſame reaſonable Account to the ſaid I. B. hath not as yet rendred, but the ſame to him hitherto to render he hath denyed, and ſtill doth deny, whereupon he ſaith &c. Damage eleven pounds, and thereof he bringeth Suit &c.

An account for monies received by the hands of diſverſe perſons..

And ſaith nothing in bar of the afozeſaid Action of the ſayd I. B. whereby the ſaid I. B. remaines againſt the afozeſaid I. C. thereof without defence, Therefore it is conſidered that the afozeſaid I. C. do account with the ſaid I. B. for the time and monies afozeſaid, and the afozeſaid J. C. in Mercy becauſe he did not formerly account &c.

Saith nothing

Mercy.

B. P. Late of &c. was ſummoned to answer F. H. and R. H. of a Plea, that hee render to them his reaſonable Account for the time that hee was the Bayliſſ of them the ſaid F and R in A and C and Receiver of the monies of the ſame F and R &c. And whereupon the ſame F and R by W T and J K who are admitted by the Court here to proſecute for the ſame F and R who are within age as the next freinds of them the ſaid F and R ſay, that where as the afozeſaid B was the Bayliſſ of them the ſayd F and R of one Peſſuage, thirty Acres of Land &c. with the Appurtenances in A afozeſaid, from the five and twentieth day of May in the year &c. untill the five and twentieth day of March in the ſixteenth year of the Raign of the Lord the King that now is, and by the ſame time having the care and adminiſtration thereof, and power to improve and to ſarme let the Tenements afozeſaid with the Appurtenances, and the Rents and ſarmes for thoſe Tenements, to the uſe of them the ſaid F and R by the time afozeſaid to collect and receive, and the Receiver of the monies of them the ſaid F and R and by the ſame time had received of the monies of them the ſaid F and R at A afozeſaid, by the hands of I W ten pounds, and by the hands of G U ſix pounds, to render his reaſonable account thereof to the ſame F and R when hee had been thereunto required: Nevertheleſſe the afozeſaid B although often required his Reaſonable Account thereof to the ſame F and R hath not as yet rendred, but the ſame to them hitherto to render he hath denyed and ſtill doth deny, whereupon they ſay that they are the worſe, and have Damage to the value of ten pounds, and thereof they bring Suit &c.

An Account as Bailiſſ and Receiver of monies.

Admitted by the next freinds.

When

When &c. and as to this that the said F. and R. do suppose him the said B to have been the Bayliff of them the said F. and R. of the Tenements aforesaid with the Appurtenances in A. and C. aforesaid, and thereof to have had the care and administration, and power to improve, and to farme to let the Tenements aforesaid with the Appurtenances, and the Kents and Farmes for those Tenements to the use of the aforesaid F. and R. to collect and receive: The same B saith that he was never the Bayliff of the aforesaid F and R of the Tenements aforesaid or of any parcell thereof, to render an account thereof to the same F and R when he should be thereunto required, as the aforesaid F and R above against him have thereof declared, and of this he puts himselfe upon the Country, and the said F and R likewise. And as to this that the aforesaid F and R do suppose him the said B to have been the Receiver of the aforesaid F and R of ten pounds by the hands of J. W. and of the aforesaid six pounds by the hands of the aforesaid G M The same B thereof saith, that he never was the Receiver of the said F and R of the monies aforesaid or of any parcell thereof by the hands of the aforesaid I W and G M or either of them to render an account thereof to the same F and R when hee had bene thereunto required, and the aforesaid F and R above against him thereof have declared, and of this likewise he putteth himselfe upon the Country, and the aforesaid F and R thereof likewise, therefore as to try as well this Issue as the aforesaid other issue between the parties aforesaid above joyned, it is commanded the Sheriff that he cause to come here such a day &c.

A Declaration upon a Bill against an Attorney for 7 l. for 3 l. the defendant doth acknowledge the Action and for 4 l. residue, the Defendant pleads he was never Receiver

TRin. 13 of King Charles, Elsewhere as it appeareth in Easter Terme last past in the Roll 1133. it is contained thus, Memorandum, that the 20th. day of May in this same Terme, came here in Court William Oldreewe by F G his Attorney, and did exhibit to the Justices here his certain Bill against William Meese Gent. one of the Attornyes of the Court of the Lord the King of the Bench here present here in Court in his proper person, of a plea, that he render to him his reasonable account of the time that hee was the Receiver of the monyes of him the said W.O. for that (to wit) that whereas the aforesaid W. Meese the 20th. day of Aprill in the eleventh year of the Raigne of the Lord the King that now is, at the City of Exeter, had been the Receiver of the monies of him the said W O and then and there had received of the monyes of the same W.O. by the proper hands of the said W O seven pounds to render a reasonable account thereof to the same W O when he had been thereunto required. Nevertheless the aforesaid W M although oftentimes required the reasonable Account aforesaid of the said monies to the same W O hath not as yet rendred, but the same to him hitherto to render he hath denyed, and still doth deny, whereupon hee saith, that he is the worse, and hath damage to the value of twenty pounds, and thereof he prayeth a remedy &c. Pledges for prosecuting, John Doo, Richard Roo. And the aforesaid VVilliam Meese in his own person comes and defends the force and injury &c. and prays License to speake together thereof here untill Friday next after the morrow of the Holy Trinity and he hath it &c. The same day is given to the aforesaid VV O here &c. At which day here came as well the said VV O by his Attorney aforesaid, as the said VV M in his own person, and hereupon the same W O prays that the said W M to his Declaration aforesaid may answer, &c. and the said W M as before defends the force and injury &c. and as to sixty shillings of the aforesaid seven pounds above supposed to have been received by the same W by the hands of the said W O the same W M saith nothing in bar of the aforesaid Action of the said W O thereof, whereby the said W O remains against the said W Meese thereof, without defence. Therefore it is considered that the aforesaid VV Meese do account with the aforesaid VV O of the time and sixty shillings aforesaid, and the said VV Meese in Percy, because hee formerly

formerly thereof did not account, and as to eighty shillings of the aforesaid seven pounds residue above supposed to have been received by him the said W. M. by the hands of the said W. O. the same W. M. saith, That hee was never the Receiver of the same eighty shillings of the same time and monies, nor of any penny thereof, in manner as the said W. O. above against him hath thereof declared, and this he is ready to defend against him and his Suit, as the Court of the Lord the King here shall consider. Therefore it is considered that the said W. M. do wage to him thereof his Law by the twelfth hand, pledges of the Law, Jo. Denn and Richard Fenn, and come hee with his Law here on Monday next after eight dayes of Saint Michael; and it is sayd to the aforesaid W. Meese, that he be then here in his own person to do his Law aforesaid &c. And because it is not known whether the said W. Meese will do his Law aforesaid of the aforesaid eighty shillings or not, and if hee shall make default thereof, it is convenient that the same W. M. do render one only account, as well of the aforesaid sixty shillings, whereof the same W. is above convicted to account, as of the aforesaid eighty shillings: Whereof the same W. is above convicted to account, as of the aforesaid eighty shillings, whereof the same W. M. is above, as aforesaid, to wage his Law aforesaid, therefore let processe cease against the aforesaid W. Meese as to the aforesaid sixty shillings, whereof above as aforesaid, hee is convicted to account, untill the said W. M. shall do his Law aforesaid of the aforesaid eighty shillings or not do it &c.

The wager of Law is very well awarded.

Elsewhere as it appeareth in the Term of the Holy Trinity, in the tenth Year of the Reign of the Lord Charles, now King of England, in the Roll 1424. it is contained thus, Salop ff. Robert Drinkwater late of the Towne of Shrewsbury in the County aforesaid Grocer, was summoned to answer William Hughes, of a plea that hee render to him his reasonable Account of the time that he was the Receiver of the monies of him the said William &c. and whereupon the same William by John Jones his Attorney, saith, That where as the aforesaid Robert had been the Receiver of the monies of the said William from the thirtieth day of June in the year of our Lord 1630. untill the twentieth day of November, thence next ensuing, and by the same time had received of the monies of him the said William, that is to say, at the Town of S aforesaid, by the hands of one John Fisher, thirty pounds, and there by the hands of one William Thomas ap Howell twenty pounds, and there by the hands of one Rice Williams, and by the appointment of the aforesaid William Thomas ap-Howell, three and thirty pounds, to render a reasonable account thereof to the said William Hughes when he had been therunto required. Nevertheless the aforesaid Robert, although oftentimes required, his reasonable Account aforesaid thereof to the said William Hughes hath not as yet rendered, but the same to him hitherto to render hee hath delayed, and still doth deny, whereupon he saith, That he is the worse, and hath damage to the value of twenty pounds, thereof he bringeth Suit, &c.

Trin. 16 of King Charles Roll
A Declaration in account against a receiver of monies.

By the hands of others.

And by the appointment &c.

And the aforesaid Robert by John Bunbury his Attorney, comes and defends the force & injury when, &c. and as to the aforesaid thirty pounds, whereof the aforesaid William Hughes above by his Declaration aforesaid, saith, him the said Robert to have been the Receiver by the hands of the said John Fisher, and the forty shillings of the aforesaid twenty pounds, parcell of which the said William Hughes above supposeth him the said Robert to have been the Receiver by the hands of the said William Thomas ap Howell, the same Attorney saith, That he is not informed by the same Robert his Client of any answer for the same Robert, to the aforesaid William Hughes in the Action aforesaid, thereof to be given, and nothing else thereunto saith, whereby the same William Hughes remaines against the aforesaid

The Defendant as to part pleads not informed, as to the residue he was never Receiver.

Robert

Mercy.

Let the Account cease untill, &c.

Ven. fac. awarded.

Nisi prius.

The appearance of the Plaintiff. Postea.

Tales of By-standers.

Asto part &c.

The Jurors find for the Plaintiff.

Robert as to the same monies thereof without defence, therefore it is considered that the aforesaid Robert do account with the said William Hughes of those time and monies, and the same Robert thereof in mercy, because formerly he hath not accounted, &c. And as to the Receipt of eighteen pounds of the aforesaid twenty pounds residue, which the aforesaid William Hughes above supposeth him the said Robert to have received, by the hands of the aforesaid William Thomas ap Howell, and of the aforesaid 33 l. which the said W. H. above supposeth him the said Ro. to have received by the hands of the aforesaid Rice Williams, and by the appointment of the aforesaid Will. Thomas ap Howell, the same R. saith, That he never was the Receiver of the same monies of the said W. H. by the hands of the said W. Thomas ap Howell and Rice, or of either of them as the said W. H. by his Declaration aforesaid above thereof supposeth, and of this he putteth himself upon the Country, and the said W. H. thereof likewise. But let the Account of the aforesaid R. of the time and monies aforesaid cease, whereof the aforesaid R. is above adjudged to account, untill the issue aforesaid, between the said parties above joyned, be determined, &c. and as to try that issue above joyned, it is commanded the Sheriff that hee cause to come here from the day of the Holy Trinity in three weekes twelve &c. by whom &c. and who neither &c. to make a Jury &c. because as well &c. Afterwards the Process being continued between the said parties of the aforesaid Plea, by Juries thereof betwixt them respited here untill to this day, that is to say, from Easter day, in fifteen dayes, in the eleventh yeare of the Reaign of the Lord the King that now is, unlesse the Justices of the Lord the King assigned to take Assizes in the County aforesaid by forme of the Statute, &c. the day of last past at in the County aforesaid had first come. And now here at this day comes the said W. H. by his Attorney aforesaid, and the aforesaid Justices of Assizes before whom &c. have sent here their Record in these words, Afterwards, the day and place within contained, before Humphrey Davenport Knight, Chief Baron of the Exchequer of the Lord the King, and William Jones Knight, one of the Justices of the said Lord the King assigned to hold the Pleas before the King himselfe, Justices of the same Lord the King assigned to take Assizes in the County of S by forme of the Statute &c. came as well the within named William Hughes as the within written Robert Drinkwater, in their own persons, and the Jurors of the Jury, whereof within there is made mention, being called, some of them, namely, William Barnelley, Francis Gravenor, and James ap Rees, come and on that Jury are sworn, and because the rest of the Jurors of that Jury did not appear, therefore others of by-standers by the Sheriff of the County aforesaid, hereunto chosen at the request of the said W. H. and by the Commandement of the said Justices, are newly put too, whose names to the Panell within written are affiled, according to the form of the Statute in such case set forth & provided: Which said Jurors so newly put too, namely, Humph. Selman, Edw. Griffithes, Fr. Garland, Iohn Marston, Tho. Jones, Tho. Clea, Roger Dike, Ioh Harris Walter Reynolds, being called, likewise came, who to speak the truth of the within contained, together with the other Jurors aforesaid thereof formerly impanelled and sworn, being chosen, tryed, and sworn, as to the receipt of eighteen pounds of the within written twenty pounds residue, which the said Hughes within supposeth the aforesaid Robert to have received by the hands of the within named William Thomas ap Howell, and of the within written three and thirty pounds which the said William Hughes within supposeth the aforesaid Robert to have received, by the hands of the within named Rice Williams, and by the appointment of the aforesaid William Thomas ap Howell within put in Issue, say upon their Oath, that the aforesaid Robert Drinkwater was the Receiver of the same monies of the said William Hughes by the hands of the said William Thomas ap Howell, and Rice Williams, in manner and forme as the said William Hughes by his Declaration within written within

within supposeth, therefore it is considered that the aforesaid Robert Drinkwater do account with the said William Hughes of the time and monies aforesaid, and the aforesaid Robert thereof in Mercy, because he hath not formerly thereof accounted, &c. And hereupon it is commanded the Sheriff that he take the aforesaid Robert Drinkwater if, &c. and him safely, &c. so that hee have his body here from the day of the Holy Trinity in fifteen dayes, to account with the sayd William Hughes, of the time that hee was the Receiver of the monies of the said William Hughes, whereof he is convicted. And now here at this day, come as well the sayd William Hughes by his Attozney aforesaid, as the aforesaid Robert Drinkwater in his own person, under the custody of the aforesaid Sheriff to the Bar here brought, and the same Sheriff, namely &c. now certifieth, That he by virtue of the Writ aforesaid to him directed, did take the body of the aforesaid Robert Drinkwater, whose said body here at this day he hath ready, as by that Writ it was commanded him, and hereupon the aforesaid Robert Drinkwater is committed to the Prison of the Lord the King of the Fleet, there to abide by occasion of the premises, untill, &c. Whereupon the same Robert saith, That he is ready thereof to account, &c. And John Knightbridge Gent. and Nevill Cradock Gent. are by the Court here assigned Auditors to hear the Account aforesaid, which said Auditors have assigned Saturday next after fifteen dayes of the Holy Trinity, at three of the Clock of the same day, at the Office of John Gullston Esquire, one of the Prothonotaries of this Court, being in the Middle Temple London, in the Parish of Saint Dunstan in the West, in the Ward of Farringdon without, to the aforesaid Robert Drinkwater to account with the said William Hughes before the same Auditors and upon this William Colethurst of the Parish of Saint Lawrence London, Salter, and William Owen of the Parish of Saint Benner, neer Pauls Wharfe London Gent. in the Court here personally constituted, have undertaken, and both of them by himself hath undertaken for the aforesaid Robert Drinkwater in the summe of forty pounds, and the same Robert likewise present in the same Court here, did undertake for himself in the summe of eighty pounds, that hee the said Robert shall personally appear before the said Auditors, at the aforesaid Office of the said John Gullston, being in the Middle Temple London, at the aforesaid day and hour above assigned, and so from day to day at every day and place to him by the said Auditors assigned, untill the account aforesaid should be finished, and also that the same Robert shall appear before the Justices here at that day, in which the said Auditors the Account aforesaid here in Court shall deliver, and so from day to day at every day of the Plea to the same Robert by the Court here to be assigned, untill the plea thereupon be determined, and Judgement thereof should be given: And also if it happen him the said Robert upon his Account to be found in arrears, and Judgement against the same Robert to be given, that he the said Robert do satisfie to the said William Hughes of the Arrears upon him found, or do render himselfe to the aforesaid Prison of the said Lord the King of the Fleete, there to abide, untill hee shall have satisfied of those Arrears. Which said summe of forty pounds, both the Banucaptors aforesaid, by themselves severally do acknowledge of their Lands and Chattells: And which said summe of eighty pounds, the aforesaid Robert doth acknowledge of his Lands and Chattells to be made, and to the Use and Schoole of the sayd William Hughes to be levied, if it happen the aforesaid Robert in any of the Premises to make default, or thereof in lawfull manner to be convicted, &c. or if the same Robert upon the same Judgement shall not render himself to the prison aforesaid, to abide in the same, untill of the Arrears upon him found, he shall have satisfied &c. whereupon the same Robert with the assent of the said William is dismissed by the Court here upon bail upon the Recognizance aforesaid &c. and it is said by the Court here to the same Auditors, That their whole Fiat in the Premises, they have here on Tuesday next after three weekes of the Holy Trinity next coming, &c.

Judgement that the Defendant do account, &c.

Mercy.

A *Capias* ad *Compuand.* awarded.

A *Capias* returned thereupon.

Commitment to the Fleet. Auditors of the Account assigned. Who assigne a day, hour, and place.

Baile thereupon,

Nota.

The Defendant let go upon baile. The Auditors have a day given them.

At

The appearance of the Plaintiff by his Attorney, and of the Defendant and Auditors in their own persons.

The account by them brought into the Court in *Hæc verba.*

The Defendant before the Auditors pleads severall pleas in discharge of the account.

At which said Tuesday next after the aforesaid three weeks of the Holy Trinity, came as well the said W H by his Attorney aforesaid, as the aforesaid Robert in his own person, & also the said Auditors in their own persons likewise came, and did bring here into Court the Account of the aforesaid Robert, of and upon the Premises, before them made, which followeth in these words, The Account of Robert Drinkwater made at the Office of John Gullston Esquire in the Middle Temple London, that is to say, the thirtieth day of June in the eleventh year of the Reign of the Lord Charles, now King of England, before John Knightbridge Gent. and Nevill Cradock Gent. Auditors assigned by the same Court here, to hear the Account of him the said Robert, in the Court here at Westminster of the time that he was the Receiver of the monies of him the said William Hughes, that is to say, from the thirtieth day of July in the year of our Lord one thousand six hundred and thirty, untill the twentieth day of November thence next following. Imprimis, The same Robert as to the aforesaid thirty pounds which he by the hands of the aforesaid John Fisher did receive, saith, That he the said Robert of the same thirty pounds ought to be discharged, because he saith, That he the same Robert, after the aforesaid time that he received the aforesaid thirty pounds (that is to say) the thirtieth day of September, in the year of our Lord 1630. aforesaid, at the aforesaid Town of S by the appointment of the said William Hughes, did pay unto one Peter Drinkwater twenty pounds parcell of the aforesaid thirty pounds, and to one Henry Harwell ten pounds, residue of the aforesaid thirty pounds, and prays Allowance of the same thirty pounds, and the same Robert as to forty shillings of the aforesaid twenty pounds which he by the hands of the aforesaid William Thomas ap Howell received, saith, That he the said Robert Drinkwater, of the same forty shillings likewise ought to be discharged, because he saith, That he the same Robert after the aforesaid time that he the aforesaid twenty pounds received (that is to say) the aforesaid thirtieth day of September in the year of our Lord, 1630. aforesaid, at the aforesaid Town of S by the appointment of the said William Hughes, did pay to the said Henry Harwell the aforesaid forty shillings, parcell of the aforesaid twenty pounds, and prays allowance of the same forty shillings. And as to eighteen pounds of the aforesaid twenty pounds residue, which he by the hands of the said William Thomas ap Howell received, the same Robert saith, That he of the same eighteen pounds likewise ought to be discharged, because he saith, That he the same Robert did receive the same eighteen pounds of the aforesaid William Thomas ap Howell to pay to the use of the said William Hughes, and that after the aforesaid time, that hee the aforesaid twenty pounds received (that is to say) the twelfth day of October in the year of our Lord 1630. aforesaid, the aforesaid William Thomas ap Howell at the aforesaid Town of S did command the same Robert to pay the same eightene pounds to one Samuel Davies for the Debt of Henry March, by virtue of which commandment, the same Robert the aforesaid twelfth day of October in the year of our Lord 1630. aforesaid, at the aforesaid Town of S did pay to the said Samuel Davies the aforesaid eighteen pounds, of the aforesaid twenty pounds residue, and prays allowance of the same eighteen pounds. And the same Robert as to the aforesaid three and thirty pounds, which he by the hands of the aforesaid Rice Williams, by the appointment of the aforesaid William Thomas ap Howell received, saith, That he the said Robert Drinkwater of the same three and thirty pounds likewise, ought to be discharged, because he saith, that hee the said Robert did receive the same three and thirty pounds, of the aforesaid Rice Williams, by the appointment of the aforesaid William Thomas ap Howell to pay to the use of the said William Hughes, and that after the aforesaid time that hee the aforesaid three and thirty pounds received (that is to say) the tenth day of November in the year of our Lord 1630. aforesaid, the said William Thomas ap Howell at the aforesaid Town of S did command

the

Hughes, by virtue of which commandement the same Robert Drinkwater did then and there pay to the aforesaid Robert Hughes, the aforesaid 33 l. and prayes allowance of the same 33 l. &c.

And the aforesaid William Hughes, as to the severall Pleas of the aforesaid Robert Drinkwater, as to the aforesaid thirty pounds, which he the said Robert by the hands of the aforesaid John Fisher received, and the aforesaid 18 l. of the said 20 l. residue, which he the said Robert by the hands of the aforesaid William Thomas ap Howell received, and also as to the aforesaid 33 l. which the aforesaid Robert, by the hands of the said Rice Williams, by the appointment of the said William Thomas ap Howell received, above in discharge of the account aforesaid pleaded, saith, That those severall Pleas, as to the same 30 l. 18 l. and 33 l. in manner and forme aforesaid, above pleaded, and the matter in the same Pleas thereof contained, are not sufficient in the Law to discharge the aforesaid Robert of his account aforesaid thereof, to which he the said William needeth not, nor by the Law of the Land is bound to answer; and this he is ready to verifie, whence for want of a sufficient Plea of the aforesaid Robert Drinkwater, in this behalfe the same William Hughes prayes judgement, and that the aforesaid Robert Drinkwater to be in arrears towards the same William Hughes of the same severall sums of monies be convicted. And as to the aforesaid Plea of the said Robert Drinkwater, as to the aforesaid forty shillings of the said twenty pounds parcell, which the aforesaid Robert Drinkwater by the hands of the aforesaid William Thomas ap Howell received above in the discharge of the account aforesaid, thereof pleaded, the same William Hughes saith, that the aforesaid Robert Drinkwater, of the same forty shillings, ought not to be discharged, because he saith, that the aforesaid Robert Drinkwater by the appointment of the same William Hughes did not pay to the aforesaid Henry Harwell the aforesaid forty shillings, of the said twenty pound parcell, as the aforesaid Robert Drinkwater hath above thereof alledged, and this he prayes that it be inquired by the Country, and the aforesaid Robert Drinkwater thereof likewise, &c.

The Plaintiff
as to the first;
second and
third Pleas
demurs.

And as to the
fourth Plea,
pleads.

He did not
pay.
And issue
thereupon.

And the aforesaid Robert Drinkwater in as much as he, sufficient matter in the Law in his severall Pleas aforesaid, as to the aforesaid 30 l. 18 l. and 33 l. in discharge of the same his said account thereof, hath above alledged, which he is ready to verifie, which said matter the said William Hughes doth not deny, nor to that in any wise answer, but to admit of that averment utterly refuseth, praies judgement, and that he the said Robert Drinkwater of the aforesaid 30 l. 18 l. and 33 l. be discharged, &c. And because the Justices here will advise themselves of and upon the Premises, as to this whereof the said parties have above put themselves upon the judgement of the Court, before they give judgement, thereupon day is given to the same parties here untill in eight dayes after St. Michael for to heare thereof their judgement, for that the same Justices here thereupon not as yet, &c. And as to try the issue aforesaid between the said parties above joyned to be tryed by the Country, it is commanded the Sheriff that he cause to come here at the same time twelve, &c. by whom, &c. and who neither, &c. to make a Jury, &c. because as well, &c.

Joynder in
demurrer.

The Court
will advise.

And for tryall
of the issue, a
Venire facias
is awarded.

ANNUITY.

Annuity.

H. 21. E. 4. Roll. 352. As in the same writing it is moze fully contained, neverthelesse the aforesaid Defendant, the aforesaid Annuity or yearly rent of the said forty shillings, by three whole years next before the day of obtaining of the originall writ of the same Plaintiff (that is to say) such a day and yeare from the said Plaintiff, hath withdravne, and the same to the said Plaintiff to render he hath denyed, and still doth deny, whereupon he saith, &c. And it is to be noted that in this declaration the Plaintiff doth not say, that he was seised of the yearly rent aforesaid.

H. 1. & 2. E. 6. Roll. 432. As by the same writing it moze fully appeareth, by virtue of which said gift and grant, the same Plaintiff was seised of the Annuity or yearly rent aforesaid, by the hands of the aforesaid A. untill to the Feast of St. Michael next before the day of obtaining of the originall Writ of the said Plaintiff, (that is to say) such a day and yeare, that the said Defendant the yearly rent aforesaid from the said Plaintiff did withdraw, and the same to him to render he hath denyed, &c.

H. 6. H. 8. Roll. 418. Action not, because he saith, That the day of obtaining of the originall Writ of the aforesaid Plaintiff (that is to say) such a day and yeare, nothing of the yearly rent aforesaid to the said Plaintiff was in arreare not paid, as the said Plaintiff hath above alledged, and of this he puts, &c. therefore twelve, &c.

P. 14. H. 8. Roll. 556. At which day the Jury, &c. afterwards, &c. therefore it is considered that the aforesaid now Abbot doe recover against the aforesaid W. the aforesaid annuall rent, and the arrears of that yearly rent, as well before the day of obtaining of the originall Writ of the same now Abbot, as after incurred, which in the whole doe amount to foure pound, and also his Damages to thirty three shillings and foure pence, by the Jurors aforesaid, in forme aforesaid assessed, and the aforesaid Defendant in mercy, &c.

Mercy.

T. 14. H. 8. Roll. 430. ff. A. B. was summoned to answer B. of a Plea that he render to him ten pounds, and ten goiwes, which to him are in arreare of the yearly rent of twenty pound, and one gowen, which to him he oweth, &c. the declaration and afterwards an imparlance.

H. 4. E. 4. Roll. 345. A. B. was summoned to answer C. of a Plea, that he render to him twenty pounds, and three roaves, or forty shillings for every such roave, which to him are in arreare of the yearly rent of three pounds, and one roave, or ten shillings for such roave which he oweth to him, &c.

Within age by
protestation
demurs to
the Defen-
dants Plea,
and judgment
with the De-
fendent.

And the aforesaid Plaintiff by protesting, that he at the time of the said offering of the presentation aforesaid, was within the age of one and twenty years, saith, That the aforesaid Plea of the said Defendant, in manner and forme aforesaid above pleaded, is not sufficient in the Law to exclude the same Plaintiff from his action aforesaid, to demand the aforesaid yearly rent, and this, &c. whereupon he demands judgement, and that yearly rent, together with the arrears of the same, and Damages by occasion of the detaining of that yearly rent, to him to be adjudged, &c.

H. 14. H. 8. Roll. 117. Therefore it is considered that the said Plaintiff doe recover against the aforesaid Defendant, the yearly rent aforesaid, and the arrears of the same, as well before the day of obtaining of the original writ aforesaid, as after incurred, which doe amount to forty pounds, and his Damages by reason of the with-drawing of the yearly rent aforesaid to twenty shillings to the same Plaintiff, with his assent by the Court here adjudged, and the aforesaid Defendant in mercy, &c.

Mercy.

S. P. C. late of London Esquire, otherwise called, &c. was summoned to answer I. P. cheife Justice of the Lady the Queen for Pleas assigned to be holden before the Queene her selfe, of a Plea, that he render to him one hundred and twenty pounds, which to him are in arreare, of the yearly rent of six pounds thirteen shillings and four pence, which to him he oweth, &c. and whereupon the same I. by B. his Attorney saith, That whereas the aforesaid P. and one W. M. I. A. and M. B. Widow now deceased, which said W. I. and M. the aforesaid P. did overlive, such a day and yeare at London, &c. by their certain writing, which the same I. with the scales of the said W. P. I. and M. signed here in Court shew forth, the date whereof is the same day and yeare, by the names of W. M. I. A. and M. C. Widow, and P. B. of, &c. had given granted, and by the same writing confirmed to I. P. by the name of I. P. Esquire the yearly rent aforesaid, by the name of one Annuity of yearly rent of six pounds thirteen shillings and four pence, of lawfull money of England, issuing forth of and out of the Mannor of T. in the County of Devon, and out of all and singular the Lands, Tenements, and Hereditaments to the same Mannor belonging, or in any wise appertaining, to have, enjoy, and perceive the aforesaid Annuity of yearly rent of six pounds thirteen shillings and four pence, to the same P. for and during the naturall life of the said I. P. to be paid at the feasts &c. yearly, during the terme aforesaid, by equall portions, as by the same writing it more fully appeareth, and the aforesaid W. I. M. and P. in the lifes time of them the said W. I. and M. and the aforesaid P. after the death of the same W. I. and M. the aforesaid yearly rent by eighteen years next before the feast of St. Michael the Archangell, &c. from the said I. B. have with-drawn, and the same to him to render they have denyed, and the aforesaid I. W. the same to the said I. P. still to render doth deny, whereupon he saith &c.

H. 30. Eliz. Roll 346. Derby sh. William Bishop of Chester, George Bolton thirty three pounds six shillings and eight pence, which to him are in arreare of the yearly rent of five markes, which he oweth him, &c. and whereupon the same S. by Francis Richards his Attorney saith, That whereas one William late Bishop of Chester, the Predecessor of the said now Bishop, the twentieth day of February, in the fifth yeere of Queen Eliz. by deed, in consideration of the good, true, and faithfull labour, and service by the aforesaid George before that time done and bestowed in and about the businesses of the said Bishoprick to be solicited, as also from thenceforth to be bestowed, did give, grant, &c. the yearly rent of five markes, issuing forth of the Mannor, &c. And gave twelve pence in the name of scisin, as by the same writing it more fully appeareth, which said writing, and all and singular things in the same contained afterwards, (that is to say) the second day of June in the yeare aforesaid at the City of Chester in the County of the City of Chester, the then Deane, &c. by deed did confirme the said grant, as by the same writing it more fully appeareth.

An Annuity brought by a Counsellor at Law against a Bishop upon the grant of his Predecessor, *pro consilio impenso & impendenda* and confirmed by the Deane and Chapter.

And the aforesaid George, saith, That he was skilfull in the Law at the time of the grant aforesaid and long before, and that the aforesaid grant of the said yearly rent was made for counsell in Law by him the said George to the said

The case is vouched.

See Saps case, Coke 10. lat. rep. fol. 616.

late Bishop before that time given, and from thenceforth to be given to the said late Bishop and his Successors, and that all the Predecessors of the said late Bishop, from the time whereof the memory of men is not to the contrary, have used to have and retain men learned in the Law, for their matters in Law, concerning the Lands and Tenements of the Bishopricke aforesaid issuing: And the same George further saith, That the aforesaid yearly rent of five markes is a reasonable fee for a counsell learned in the Law by him given, and to be given to the said late Bishop and his Successors, and that the said G. at all times after the grant aforesaid made, was ready to give counsell to the said late Bishop and his Successors. And afterwards (that is to say) the twentieth day of August, in the twentieth yeare of the Queen that now is, the said late Bishop of Chester, at the City of Chester aforesaid dyed, after whose death (that is to say) the fourteenth day of December in the two and twentieth yeare of the Queene that now is, the said William now Bishop of Chester, was in due manner chosen and made Bishop of the Bishopricke aforesaid. And the aforesaid G. by pretext of the grant and confirmation aforesaid, was seised of the yearly rent aforesaid made for the terme of his life, untill seven years next before the day of obtaining of the originall Writ of him the said George (that is to say) the sixteenth day of June, in the eight and twentieth yeare, and after the death of the said late Bishop of Chester, that the said now Bishop, the yearly rent aforesaid from the said G. hath withdrawn, and the same to him to render he hath denyed, and still doth deny, whereupon he saith, &c. Damages twenty pounds, and thereof he bringeth suite, &c.

Assise of Novel disseisin.

A writ of Error upon an Assise.

TH E Lady the Queen hath sent to her well beloved and faithfull Thomas Walmesly, one of her Justices of the Bench, and Edward Fenner one of her Justices, assigned to hold the Pleas before the Queene her selfe, her Justices assigned to take Assises in the County of Cornwall, her Writ close in these words, Eliz. by the grace of God, of England, France, and Ireland, Queen, Defender of the faith, &c. to our well beloved and faithfull T. W. one of our Justices of the Bench, and Edward Fenaer one of our Justices assigned to hold the Pleas before us, our Justices assigned to take assises in the County of Cornwall, greeting: Because in the Record and Prozesse, and also in giving of the judgement of an Assise of Novel disseisin, which between Francis Nicholas, and John Pascow was summoned & taken before you at Launceston by our Writ of a Franktenemet in Trewro, manifest Error doth intervene, to the great Damage of the said John, as of his complaint we have understood: We being willing to have the Error, if any shall be, in due manner to be corrected, and full and speedy justice to be done to the aforesaid parties in this behalfe, command you, that if judgment thereupon be given, then the Record and Prozesse aforesaid, with all things touching them, to us under your seals yee distinctly and openly send, and this Writ, so that we may those things have in the morrow of the purification, &c. wherefoever we then shall be in England, that the Record and Prozesse aforesaid being inspected, we may cause further therein to be done, what of right and according to the Law and custome of our Realme of England shall be to be done, witnesse our selfe at Westminster, &c.

The answer of *Thomas Walmisley*, and *Edward Fenner*
within named.

The Record and Procelle of the Assise of Novel disseisin, whereof, within there is made mention, with all things touching those, before the Lady the Queene wheresoever, &c. at the day within contained, we send in a certain Record to this Writ annexed, as it is within commanded us.

The returne of
the writ of
Error.

Elizabeth, by the grace of God, of England, France, and Ireland Queen, Defender of the faith, &c. To the Sheriff of Cornwall, greeting; Com-
plained hath to us Francis-Nicholas, that John P. unjustly and without judge-
ment hath disseised him of his Franktenement in Trewro, within thirty
years now last past, and therefore we command you, that if the said Francis shall
leave you of prosecuting his claime, then you cause those tenements to be
re-seised of the Chattells, which in the same were taken, and the same tene-
ment with its Chattells to be in peace untill the next Assize, when our Justi-
ces into those parts shall come, and in the meane time you cause twelve free
and lawfull men of that venew to view that tenement, and their names to be
inhabited, and summon them by good summoners, that they then be before
our Justices at the aforesaid Assize ready thereof to make recognizance, and
put by sureties and safe Pledges, the aforesaid John or his Bayliff, if he shall
not be to be found, that he then be there to heare that recognizance, and have
you there the summoners, the names of the Pledges, and this writ. Witnesse
our selfe at Westminter the one and thirtieth day of January in the eight and
twentieth year of our raigin. Pledges for prosecuting John Doo and R. Roo,
the within named Jo. P. is attached by one table of the value of five shillings,
the residue of the execution of this Writ appears in a certain pannell to this
Writ annexed.

The Indors-
ment of the
Writ.

C. T. Esquire Sheriff,

The names of the Recognitors of the Assise of Novel disseisin, between F.
N. Plaintiff, and J.P. tenant, Jo.L. of M. Esquire, untill the twenty fourth,
The names of the Summoners of the Recognizance aforesaid, John Doo,
R. Roo, the manucaptors of the Summoners of the Recognizance aforesaid,
and of both of them, John Denn, Richard Fenn, John Dart, John Smart.

Returne of
the pannell.

Elizabeth, &c. To the Sheriff of Cornwall, greeting; We command you
that you have before our Justices, assigned to take Assizes in your County,
at the Castle of Launceston on Monday, the twenty sixt day of July next com-
ing, the bodies of John Langdon, &c. the Recognitors of a certaine Assize of
Novel disseisin, which F. N. in our Court before our Justices assigned to take
Assizes in your County at the Castle of Launceston, in your County hath ar-
raigned against J. P. of his Franktenement in T. to make the Recognizance
of that Assize, we also command you that ten such, as well Knights, as others,
free and lawfull men of that venew you put into the same Assize, and them
have before our said Justices at the aforesaid Castle of Launceston, at the a-
foresaid Monday to make the Recognizance of the Assize aforesaid, so that the
Assize at that day, for want of Recognitors may not remaine to be taken, and
in the meane time you cause as well the Recognitors aforesaid, formerly im-
pannelled, as others newly to be imposed, to view the tenement aforesaid, if
the same by virtue of the originall Writ thereof, before they did not view, and
have you there the names of them, which so you shall have newly apposed, and
this Writ. Witnesse Edward Fenner at the Castle of Launceston on Monday
in the third week of Lent in the thirty eight years of our raigin.

The Habeas
corpora for
want of Re-
cognitors, &c.

Lewis

The returne of
the writ of
Habeas corpus
77.

The execution of this Writ appears in a certaine pannel to this Writ
annexed.
C. T. Esquire Sherif.

The names of the Recognitors of Assize of Novel disseisin, between F. N.
Plaintiff, and John P. tenant, John Langon, every one of the Recogni-
tors aforesaid, by himselfe is severally attached by Pledges, John Doo,
Richard Roo, The issues of the Recognitors aforesaid and of every of them ten
shillings.
C. T. Esquire Sherif.

And tales of
the writ of As-
size.

The names of the Recognitors newly put to, according to the forme of the
Statute John Coriton of &c. every one of the Recognitors aforesaid newly
put to by himselfe is severally attached by Pledges John Doo, Richard Roo,
Charles Trelamion Esquire Sherif.

Verdict.

They say for the Plaintiff, That the within named I. P. is Tenant of the
Tenement, &c. and that he did disseise the Plaintiff, but not with force nor
armes.

Say that the arrears were before the day obtaining of the Writ to four-
teen pounds, Damages ten shillings, Expences ten shillings.

Rule.

The Tenant had day to speake in arrest of judgement, untill Saturday
next after three weeks of Saint Michaell next at Serjeants Inn Fleetstreet,
London, at which day is entered judgement for the Plaintiff.

The Entry.

Pleas of Assizes at the Castle of Launceston, in the County of Cornwall,
before Tho. Walmisley, one of the Justices of the Lady the Queen of the
Bench, and E. F. one of the Justices of the said Lady the Queen, for the
Pleas assigned to be holden before the Queen her selfe, Justices of the same
Lady the Queen assigned, to take Assizes in the County aforesaid, by forme
of the Statute, &c. on Munday in the third weeke of Lent, in the eight and
thirtieth yeare of the reign of our Lady Elizabeth, by the grace of God of Eng-
land, France, and Ireland Queen, Defendor of the faith.

Cornwall.

The Declara-
tion or title of
the Plaintiff.

The Assize come to recognize, whether John P. unjustly and without
judgment did disseise Francis Nicholas of his Franktenement in T. with-
thirty years now last elapsed, &c. And whereupon the same F. by Thomas
Clayton his Attorney complains, that he did disseise him of forty shillings
rent, with the Appurtenances, issuing out of one messuage with the Appurte-
nances in Trewro aforesaid, &c. And for such title of the Legement and As-
size of the rent aforesaid, the same F. saith, that one Robert Nicholas father of
him the said Francis, long before the day of obtaining of the originall Writ of
the Assize aforesaid, was seised of the messuage aforesaid with the Appurte-
nances, in his demesne as of fee, and being so thereof seised, the seventeenth
day of February in the fortieth yeare in the reign of the said Lady Elizabeth
that now is, at T. aforesaid by his certaine Indenture, between him the said
Robert of the one part, and some John Powlwheele Esquire, John Launce, and
Henry Gager of the other part made, the other part whereof with the seale of
the aforesaid Robert signed, the said F. here in Court shewes forth, The date
whereof is the same day and yeare, for himselfe, his Heires and Assignes, and
for every of them did covenant, grant, promise, conclude, and to agree to and
with the aforesaid I. P. I. L. and I. G. their Heires, Executors, and Assignes, and
every of them, that the same Robert within forty dayes next following after
the date of the same Indenture, should enfeof the aforesaid I. P. I. L. and H.
G. of the aforesaid messuage with the Appurtenances (amongst other things)
to have and to hold, to him his Heires and Assignes for ever, to such uses, in-
tents, and purposes, as afterwards in the same Indenture were contained, ex-
pressed, mentioned, and declared, and to none other use, intent, or purpose,
(that is to say) that the aforesaid I. P. I. L. and H. G. their Heires, and As-
signes, and the Survivor of them, his Heires and Assignes, should stand and
be

be seised of the messuage aforesaid, with the Appurtenances (amongst other things) to the onely use and behoofe of the aforesaid Robert N. during his naturall life without impeachment of any waile: Nevertheless it was provided, and the true intent of the same Indenture, and of the parties to the same Indenture, then was, that the same R. N. for and during the terme of his naturall life at his will and pleasure, should let, demise, set, and grant the aforesaid messuage with the Appurtenances, to any person or persons whatsoever, being willing to take the same messuage with the Appurtenances for the terme of one life, two lives, or three lives, or for the terme of one and twenty years, so that upon every such letting, demise, grant, or estate, the antient, usuall and accustomed rent, suite, and other yearly services, or more ample, should be reserved to be continued payable for and during all the continuance of every such demise, grant, and estate to be made, and to such further use and intent, that after every such demise and grant in forme aforesaid to be made and granted, then the aforesaid I. P. I. L. and H. G. their Heirs and Assignes, and the Survivor of them, their Heires and Assignes, should stand and be seised of the messuage aforesaid with the Appurtenances (amongst others) to the use and behoofe of such person and persons and their Assignes, to whom any demise, grant, or estate should be made and granted by the aforesaid Robert, in manner and forme aforesaid, of the messuage aforesaid, with the Appurtenances, for and during their estates and interests onely to them granted or let, according to the true intent and purpose of every such demise and grant to any person or persons to be made as is abovesaid, & that after the death of the said Robert, the aforesaid I. P. I. L. and H. G. their Heires and Assignes, and the Survivor of them, his Heirs and Assignes, should stand and be seised of the messuage aforesaid with the Appurtenances, and of the Reversion aforesaid, rent, and other duties thereof, to the use and behoofe of M. then the wife of the same R. for and during the terme of her naturall life, receiving and paying therefore yearly to Stephen Nicholas the Son of the said Mary during his life, sixty shillings of good and lawfull money of England, at the four principall termes of the yeare, more usuall, by equal portions to be paid, and after the decease of the same Mary, the aforesaid I. P. I. L. and H. G. their Heirs and Assignes and the Survivor of him his Heirs and Assignes, should stand and be seised of the messuage aforesaid, with the Appurtenances, and of the Reversion, rent, and other duties thereof, to the use and behoofe of the said S. N. Son and Heire apparent of the said R. and of the Heirs of his body issuing, and for default of such issue, the aforesaid I. P. I. L. and H. G. their Heirs and Assignes, and the Survivor of them, and his Heirs and Assignes, should stand and be seised of the messuage aforesaid with the Appurtenances, and of the Reversion, rent, and other duties thereof aforesaid, to the use and behoofe of the same F. second Son of the said R. and of the Heires of his body issuing, and for default of such issue, to the use and behoofe of P. N. third Son of the said R. and of the Heirs of his body issuing, and for default of such issue, to the use of the right Heirs of the aforesaid Robert for ever: Nevertheless it was provided, and the true intent and purpose of the same Indenture, and of the parties to the same Indenture was, that if the aforesaid S. N. at any time thenceforth should alien or suffer any recovery, or should prosecute any Writ of Covenant to levy a fine, or should appeare as Toucher, or by any promise, obligation, or otherwise intend, goe about, practise, or put in ure, to make any estate or estates to discontinue, or otherwise to bar the aforesaid severall remainders of the Premises, or any part thereof, otherwise then by making of the demise or demises for terme of life, two or three lives, or of one and twenty years, according to the true intent and purpose of the Statute set forth in the two and thirtieth yeare of the reign of the Lord Henry the right late King of England, that then and immediately after such discontinuance, alienation, or other act, or deed, intention, going about, practise, or putting in ure to doe any thing to the contrary of the Premises, the said I. P. I. L. and H. G. their Heirs and Assignes, and the

Statute of
uses.

the Survivors of them, his Heirs and Assignes, and every other person and persons, having or claiming any right or title in the Premises, or any parcell thereof, by or from the aforesaid Steven, from thenceforth should stand and be seized of the Premises with the Appurtenances, to the use and behoof of the said E. and of his heirs aforesaid for ever, and for default of such issue, to the use of the right heirs of the said R. as by the Indenture aforesaid (amongst other things) it more fully appeareth, and the same Francis further saith, that the said E. N. of the messuage aforesaid, with the Appurtenances in his demesne as of fee, in forme aforesaid, being seized after the said making of the Indenture aforesaid, and within forty dayes then next following, (that is to say) the twentieth day of February, in the abovesaid fourteenth year of the reign of the said Lady the Queen that now is, in consideration of the performance, and fullfilling of the aforesaid covenant, grant, and agreement in the Indenture aforesaid contained and specified of the same messuage with the Appurtenances, did infeof the aforesaid I. P. I. L. and H. G. to have and to hold to the same I. P. I. L. and H. G. and their Heirs for ever, to the uses and intents in the Indenture aforesaid, above specified and declared; by virtue of which feoffment and Indenture aforesaid, and also by force of a certain Statute of uses to be transferred into possession, set forth in the Parliament of the said late King at Westminster, in the County of Midd. the fourth day of February, in the seven and twentieth year of his reign, the aforesaid R. N. was seized of the messuage aforesaid, with the Appurtenances in his demesne, as of freehold, for the terme of his life, the remainder thereof after the decease of him the said R. to the aforesaid M. for the term of her life, and after the decease of the same Mary, the remainder thereof to the aforesaid S. N. and to the heirs of his body issuing, and for default of such issue, the remainder thereof to the aforesaid P. N. and the heirs of his body issuing, and for default of such issue, the remainder thereof to the right heirs of the aforesaid Robert for ever, and he the said Robert being so thereof seized, the remainders, as it is above limited, in forme aforesaid, belonging to the said R. afterwards (that is to say) the twenty fourth day of March, in the twenty fourth yeare of the reign of the Lady, the Queen that now is, did demise to the aforesaid John Pascow the messuage aforesaid, with the Appurtenances, to have and to hold to him and his Assignes for the terme of his life, the remainder thereof, after the decease of the same I. to one Margery, then the wife of the said I. for the terme of her life, the remainder thereof, after the decease of the same M. to one Henry Pascow Son of the said I. and M. for the terme of his life, yielding therefore yearly the ancient, usuall, and accustomed rent, and other duties then before that time, had, reserved, and accustomed to be paid and made for the same messuage, with the Appurtenances, (that is to say) forty shillings of lawfull money of England, at the four principall termes of the yeare, (that is to say) at the feasts of the Annunciation of the blessed Virgin Mary, the Nativity of St. John the Baptist, Saint Michael the Archangell, and the Birth of our Lord, by equall portions to be paid, and to doe yearly one Harbest journey, or paying four pence therefore, which said rents and other duties so reserved, were the ancient, usuall, and accustomed rents, and all other duties for the same messuage with the Appurtenances anciently, had, reserved, and accustomed to be paid and done for the messuage aforesaid, with the Appurtenances, by virtue of which demise the same I. P. was, and yet is, seized of the messuage aforesaid, with the Appurtenances in his demesne as of freehold, for the term of his life, the remainder thereof after his decease to the aforesaid M. for the terme of her life, the remainder thereof, after the decease of the same M. to the aforesaid H. P. for the term of his life, and he the said I. P. being so thereof seized, the remainder, as by the said R. N. it is above limited, in forme aforesaid belonging, and the aforesaid R. N. of the reversion of the messuage aforesaid, with the Appurtenances, as of freehold, for the terme of his life being seized,

the

the remainder thereof, as by the Indenture aforesaid it is above limited, belonging, the said Mary the wife of the said Robert, afterwards at T. aforesaid dyed. And afterwards and before the aforesaid day of obtaining of the original writ of Assize aforesaid, the aforesaid R. at T. aforesaid likewise dyed. After whose death the aforesaid Steven was seised of the reversion aforesaid, as of fee taile and right (that is to say) to him and the heirs of his body issuing. The remainder thereof for default of such issue to the same Fr. and the heirs of his body issuing, the remainder thereof further as by the Indenture aforesaid it is above limited, belonging. And he the said Steven being so thereof seised, the remainder thereof, as by the same Indenture it is above limited belonging, a certain fine was levied in the Court of the said Lady the Queene here (that is to say) at Westminster aforesaid, from the day of Easter in fiftene dayes, in the 29. yeare of the reign of the said Lady the Queen hat now is, before E. Anderson, Fr. Wyndham, William Perryam, and R. Roods, then Justices of the same Lady the Queen, and other faithful people of the said Lady the Queen, then there being present, between Tho. C. Esq; plaintiff, and the aforesaid S. N. and Dorothy his wife desorçant of the reversion aforesaid (amongst other things) by the names of five messuages, one toft, and two gardens, with the appurtenances in E. and the Burrough of Trewro, whereof a plea of covenant was summoned between them in the same Court (that is to say) that the aforesaid Steven, and D. had acknowledged the aforesaid tenements with the appurtenances, to be the right of him the said T. as those which the same T. had of the gift of the said S. and D. And those had remised and quite claimed from them the said S. and D. and the heirs of the same S. to the said T. and his heirs for ever. And besides the same S. and D. did grant for themselves & the heirs of the said Steven, that they would warrant to the said T. and his heirs, the aforesaid Tenements with the Appurtenances, against all men for ever, which said fine, in form aforesaid levied, was had & levied, to the use of the said T. C. and his heirs for ever. And the same Fr. further saith, that he after the levying of the fine aforesaid, and before the day of the purchase of the original writ of the Assize aforesaid, (that is to say) the 20 day of June, in the 29 year of the reign of the Lady the Queen that now is, came to the messuage aforesaid, and then and there claymed the aforesaid reversion of the same messuage with the appurtenances, to him and the heirs of his body issuing, according to the forme and effect of the Indenture aforesaid, by reason of the intent, going about, practising, and putting in ure of the said Steven, to levy the fine in forme aforesaid had and levied, by virtue whereof the aforesaid Fr. was and still is seised of the same reversion as of fee taile and right (that is to say) to him and the heirs of his body issuing. The remainder thereof for want of such issue to the right heirs of the said R. for ever, in forme aforesaid belonging. And the aforesaid I. P. tenant of the free hold of the messuage aforesaid with the appurtenances, the aforesaid rent of forty shillings, to the said Fr. afterwards, and before the day of the purchase of the original writ of the Assize aforesaid at T. aforesaid, did pay, whereby the same Fr. was seised of that rent with the appurtenances in his demesne as of fee taile (that is to say) to him and the heirs of his body issuing. And because fourteen pounds of the rent aforesaid for seven years ended at the feast of the Nativity of S. John the Baptist, in the 37 year of the reign of the said Lady the Queen that now is, to the same Francis after the fine aforesaid in forme aforesaid levied, were in arrear not paid, the same Fr. afterwards, and before the day of the original writ of the Assize aforesaid (that is to say) the eighteenth day of January, in the 38 year of the reign of the said Lady the Queen that now is, came to the messuage aforesaid with the appurtenances, between the hours of eleven and twelve before the noon of the same day, and then and there did demand the aforesaid fourteen pounds of the rent aforesaid, in form aforesaid, being in arrear, to be payed unto him, But because

Fine levied.

no man would then & there pay the same fourteen pounds to the said F. the same Fr. would have entered in the messuage aforesaid to distrain for the same fourteen pounds. But the dooz of the same messuage was then shut with a lock against him the said Fr. So that the same Fr. could not enter into the same messuage to distraine for the rent aforesaid, by reason of the shutting of the dooz aforesaid. And so the said I.P. him the said Fr. thereof unjustly and without judgment did disseise; And this he is ready to verifie, whereupon he prays the Affise, &c.

The answer of
the Tenant.

And the aforesaid I. P. by H. C. his Attorneys comes and says, that there is not any Tenant of the tenements aforesaid, whereof it is supposed the rent aforesaid to come in view of the recognitions of the Affise aforesaid put in the plaint, aforesaid specified, with the appurtenances, as in the frank-tenement in the writ aforesaid, named, nor was the day of the purchase of the original writ of the Affise aforesaid (that is to say) the 31 day of January in the 38 year of the reign of the said Lady the Queen that now is, or at any time afterwards; And this hee is ready to verifie, whereupon hee prays judgment of that writ, &c. And if, &c. then the same J. saith, that hee no wrong or disseisin to the aforesaid F.N. of the rent aforesaid with the appurtenances did do, as the aforesaid Fr. by his writ and plaint above supposeth. And of this hee puts himself upon the Affise, and the aforesaid Fr. N. likewise, Wherefore let the Affise thereof between them be taken, and the Recognitions of the Affise aforesaid being called, some of them came, and some of them came not, as it appeareth in the pannel, &c. Wherefore the Affise aforesaid remaineth to be taken here untill monday the twenty first day of July next coming, for want of Recognitions; and the Sheriff should then have the bodies of the Recognitions, &c. And should appose ten such, &c. And in the mean time, &c. The same day is given to the parties aforesaid there, &c. At which day here (that is to say) at the Castle of Launceston aforesaid, came also the aforesaid Fr. N. as the aforesaid J. P. by their Attorneys aforesaid; And hereupon the Recognitions of the Affise aforesaid impannelled, being called, likewise came, who to speak the truth of the premises, being chosen, tried, and sworn, say upon their oath, that the aforesaid I. P. was tenant of the messuage aforesaid, whereof the rent aforesaid comes in view of the Recognitions of the Affise aforesaid, being put, and in the plaint aforesaid specified, the day of the purchase of the original writ of the same Affise, and that the aforesaid Fr. was seized of the rent aforesaid with the appurtenances, as hee in his title hath alledged, untill the aforesaid I. P. him the said Fr. thereof unjustly, and without judgment, but not with force nor armes, did disseise, as the same Fr. hath above alledged. And further the Recognitions aforesaid doe say upon their oath, that the aforesaid rent of forty shillings to the aforesaid F. was in arrear, by seven years next before the day of the purchase of the original writ of the Affise aforesaid (that is to say) the 31. day of January in the 38. yeare abovesaid, which said arrears do extend to fourteen pounds, & they do asseise the damages of him the said Fr. by occasion of the premises, above the arrears aforesaid, and above his expences and costs, by him about his suite in this behalf laied out, to ten shillings, and for those expences and costs to ten shillings: and because the aforesaid Justices will advise themselves of and upon the premises before they give judgment thereof, day is given to the parties aforesaid, before the said Justices at the Inn of the Justices in Fleet-street London, untill saturday next after three weekes of S. Michael next coming, of hearing thereof their judgment, for that the same Justices here thereof not as yet, &c. At which day here (that is to say) at the Inn of the Justices, before the same Justices come as well the said Fr. as the aforesaid I. P. by their Attorneys aforesaid, and hereupon the premises being seen, and by the same Justices more fully understood, it is considered, that the aforesaid Fr. doe recover his seisin of the aforesaid rent of forty shillings, and the arrears aforesaid, in form aforesaid found in arrear

Judgement
upon the
Affise.

arrears being, and his damages and expences aforesaid against the aforesaid I. P. to the aforesaid twenty shillings by the Recognitors aforesaid, in form aforesaid assessed, and also thirteen pounds to the same Fr. at his request for his expences and costs aforesaid by the Court here of increase adjudged, which said arrears and damages in the whole doe amount to twenty eight pounds, and the aforesaid I. P. in mercy, &c. And hereupon the aforesaid Fr. prays a writ of the Lady the Queen, to cause to have unto him full seisin of the rent aforesaid, and it is granted to him, retournable before the Justices of the said Lady the Queen, assigned to take Assises in the County aforesaid, at the next Assises, wheresoever in the same County then next to be holden.

Mercy.

Attornyes received at the Castle of L. before Tho. W. one of the Justices of the Lady the Queen of the Bench, and E. Fenner one of the Justices of the same Lady the Queen, for pleas assigned to be holden before the Queen her self, Justices of the said Lady the Queen, assigned to take Assises in the County aforesaid, on monday the twenty sixt day of July, in the abovesaid thirty eighth year of the said Lady the Queen that now is, &c. Cornwall ss. Fr. Nicolas hath put in his place T. C. his Attorney against I. P. of a plea of Assise of Movel disseisin. Cornwall ss. I. P. hath put in his place H. C. his Attorney against Fr. Nicolas of a plea of Assise of Movel disseisin.

Warrants of Attorney.

T 12 Ja. 74. Rot. Amongst the pleas of L. Goldesburgh. Kent, &c. The Assise come to Recognise, because the abovant in the time of peace presented the last Parson, (who is dead) to the Church of M. which is void, &c. the Abbotson wherof Leonard Lovelace Esquire claymeth to belong unto him, against Mary Baronesse le Despencer, widdow, and Richard Harvey, Clerk, &c. And whereupon the said L. by W. E. his Attorney saith, that where as hee himselfe in the time of peace, in the time of the Lady Elizabeth, late Queene of England, the Church aforesaid then being void, presented one I. S. his Clerke, who at the presentation of the said L. was admitted and instituted in the same, and the aforesaid I. S. afterwards, at M. aforesaid dyed, by the death of which said I. S. the said Church is now void, and prayed Assise, &c. And now here at this day, to wit, in the morrow of the holy Trinity, the said R. H. being solemnly called, came not, and the Sherif as before returned, that the said R. was summoned by I. C. and W. E. Therefore let the assise aforesaid be taken against him by default, &c. And the said M. Le Despencer by T. T. her Attorney came and said, that the aforesaid Assise betweene the same M. and the said I. ought not to be taken, because she saith, that she well knew that the aforesaid I. S. was the last parson imparsonate in the said Church, but the said M. further saith, that this ought not to prejudice her, because she saith, that long before the day of obtaining of the said originall writ of the Assise aforesaid, one G. late Lord Abergaveny was seised of the Mannor of M. with the appurtenances in the County aforesaid, whereunto the Abbotson of the Church aforesaid then appertayned, and yet appertayneth, in his demesne as of fee, and so thereof being seised, the said Church being void, presented one I. H. his Clerke to the same Church, who at the presentation of the said G. was admitted and instituted in the same in the time of peace, in the time of H. the eighth late King of England, and the said G. being seised of the Mannor aforesaid with the appurtenances in forme aforesaid, whereunto, &c. the same G. before the fourth day of February, in the year of the reign of the late King Henry the eighth, the twenty seventh, of the Mannor aforesaid, with the appurtenances, whereunto, &c. enfeofed H. P. Knight & E. N. Knight, to hold to them and their heires to the uses in the last will of the said G. declared, by vertue of which feoffment, the same H. and E. were seised of the aforesaid Mannor with the appurtenances, to which, &c. in their demesne as of fee, to the uses aforesaid, and the same H. and E. so being seised thereof to the uses aforesaid,

Assize of the last presentation.

Court.

Seisin and presentation by the demandant.

fozelsaid, the said G. befoze the said fourth day of February, in the twenty seventh yeare abovesaid, to witt, the fourth day of June in the said twenty seventh yeare of the raigne of the said King Henry the eighth, at M. afozelsaid, made his last will in witing. And by his said will, willed and declared, that the said H. and E. and their heires, should stand and be seised of the Mannoz afozelsaid with the appurtenances, to which &c. to the vse of one M. foz term of her life, And afterwards and befoze the said fourth day of February, in the twenty seventh year abovesaid, the said G. at M. afozelsaid dyed, Henry A. then being his sonne & heir, after whose death, the afozelsaid H. &c. were seised, by vertue of the feoffment afozelsaid, of the mannoz afozelsaid with the appurtenances, to which, &c. in their demesne as of fee, to the use of the said Margaret foz term of her life, and afterwards, to the use of the said Henry A. and his heires, until the said fourth day of February, Anno, &c. of Henry the eighth, the twenty seventh abovesaid: which day the said Margaret, by vertue of the said feoffment, and also by force of a certain statute of uses to be transferred into possession, set forth in the Parliament of the said late King Henry the eighth, at Westminster, in the County of Middlesex, the same fourth day of February, Anno, &c. twenty seven abovesaid, held, made, and provided, into the Mannoz afozelsaid, with the appurtenances, to which, &c. entred, and was thereof seised in her demesne, as of her freehold foz terme of her life, the reversion of the said Mannoz with the appurtenances, to which, &c. after the death of the said Margaret, belonging to the said H. late Lord A. and the heirs of the said G. late Lord A. And the same H. late Lord A. was seised of the reversion of the Mannoz afozelsaid, with the appurtenances, to which, &c. as of fee and right. And the said H. late Lord A. being so thereof seised, the said Ma. at M. afozelsaid, took to husband one I.S. Knight, whereby the same R. and M. his wife in the right of the said M. were seised of the Mannoz afozelsaid, with the appurtenances, to which, &c. in their demesne as of free tenement, foz term of the life of the said M. And being so thereof seised, the said Church became void by the death of the said I.H. by which the said R. and M. his wife in the right of the said M. the said Church being void, to the said Church presented one W. O. their Clerk, who at the presentation of the said R. and M. was admitted, and instituted in the same in the time of peace, in the time of the said Lord the King Henry the eighth. And the said R. and M. of the Mannoz afozelsaid with the appurtenances, to which, &c. in forme afozelsaid being seised, the Church afozelsaid became void, by the deprivation of the said W. O. rightly and canonically made, by which the said T. L. Esquire, not having any right of presentation to the said Church, so being void, but by usurpation upon the said R. and M. presented one R. L. his Clerke, who at the presentation of the said T. was admitted and instituted in the same in the time of peace, in the time of the Lady Elizabeth late Queen of England: & afterwards the said Church became void by the deprivation of the said R. L. rightly and canonically made, and so continued void by six moneths and moze, then next following, no fit parson to the said Church in the time afozelsaid being presented, whereby one I. then Bishop of Rochester, Ordinary of the said place, that is to say, of the Church afozelsaid, after six moneths by lapse of time, to him in this behalfe devolved in right of his Ordinary, conferred the said Church so void, upon one I. E. his Clerke, and caused him to be instituted and inducted in the same in the time of peace, in the time of the said late Queen, the same R. S. and M. of the Mannoz afozelsaid with the appurtenances, in forme afozelsaid, being seised, the said H. late Lord A. at M. afozelsaid dyed seised of such an estate thereof, after whose death the reversion of the Mannoz afozelsaid with the appurtenances, did descend to the said Mary, le Despenser, as to the daughter and heir of the said H. late Lord A. by which the said Mary was seised of the reversion afozelsaid with the appurtenances, as of fee and right. And the same Mary being so thereof seised, the said M. the sixteenth day of November, Anno, &c. Reg. the thirty

thirty five, at M. aforesaid, died thereof seised, after whose death the said Mary into the Mannor aforesaid with the appurtenances entred, and was, and yet is thereof seised in her demesne as of fee, and so being thereof seised, the said Church became void by the death of the said I T whereby the said L. L. not having right of presentation to the said Church so being void, but by usurpation upon the said Mary, presented the said I. S. his Clerk, who at the presentation of the said L. was admitted, and instituted in the same, in the time of peace, in the time of the said late Queen of England. Whereupon the said M. being seised of the Mannor aforesaid, with the appurtenances, in form aforesaid, so that it then appertained to the said M. to present a fit person to the aforesaid Church, so being void: And the said L. and I. S. her unjustly hindred the same Mary, the writ of the said Lady the Queen of Quare Impedit, against the said L. and I. S. and one I. the then Bishop of Rochester, within six moneths next after the vacancy of the said Church by the death of the said I. T. to witt the day of Anno Eliz. Reg. forty five, out of the Court of Chancery of the said Lady the Queen, at Westminster, in the County of Middlesex, then being brought and prosecuted: which said plea, upon the said writ, in the Court of the said Lord the King, now here yet dependeth indiscussed, and undetermined. And afterwards the said plea, so as is premised, depending upon the said writ undecided and undetermined, the said Church became void by the death of the said I. S. whereby the said Mary, being seised of the Mannor aforesaid, with the appurtenances, in form aforesaid, to the said Church then being void, presented one R. H. her Clerke, who upon the presentation of the said M. was admitted, instituted, and inducted in the same, in the time of peace, in the time of the King now, and the said R. H. by vertue of the said presentation, yet Parson of the said Church imparsonate in the same is, whereby the said Mary is seised of the advowson of the Church aforesaid, as in her former estate: And so the same Mary saith, The said presentation of the said I. S. to the Church aforesaid, by the said L. in forme aforesaid made, ought not to prejudice the said M. in this behalfe: And this she is ready to verifie, and thereupon prayeth judgment, if the Assize aforesaid, between the said M. and the said L. ought not to be done, &c.

And the said L. as to the said plea of the said Mary, for the taking of the said Assize, between the said L. and the said M. above pleaded, saith, That the said plea, & the matter therein contained, are insufficient in law to retard the said L. from having his said Assize against the said Mary, or to preclude the said L. from having his presentation to the said Church: And that he, to the said plea in manner and form aforesaid pleaded, hath no need nor is bound by the law of the land to answer. And this he is ready to verifie, whereupon, for want of the said plea of the said Mary, in this behalf, the said L. prayeth judgment against the said Mary, And that to the taking of the Assize aforesaid between the said L. and the said Mary, may be barred, &c. Hutton: Harris. See the new book of Entries fol. for such a president.

And the said Mary, for that she hath above in pleading alledged sufficient matter in law to barr the said L. from having his said Assize against the said M. & to preclude the said L. from having his said presentation to the Church aforesaid, which she is ready to verifie, which said matter the said L. doth not gainsay, nor doth any whit answer thereunto, but to admit the same to be true altogether refuseth, as before she prayeth judgment, &c. And that the said L. may be barred from having his said Assize against the said Mary, &c. And because the Justices here will advise themselves, of and upon the premises, (whereupon as well the said L. as the said M. have above put themselves upon the judgment of the Court) before they give judgment therein, day is given to the parties aforesaid, here in eight dayes of S. Michael, to here thereof their judgement

judgment, because the said Justices here thereof have not as yet, &c. And as to having of the said Assize, let the taking of the said Assize, remain here until the said terme for defect of Recognizers, &c. And it is commanded the Sheriffe, that he distrain the Recognizers of that Assize, by all their lands, &c. And that of the issues, &c. And that then he have their bodies here to make Recognition of that Assize, and in the meane time &c. The same day is given to the said L. here, &c.

John Sherley, &c.

Droyturi.
The case.

The rightful Patron presents to an Abbotson appendant, and afterwards an estranger having no title usurps, and the very Patron brought his quare impedit against the usurper and his Clerk, which Clerk dies, and the Patron presents his Clerk, who is admitted and inducted, the usurper brings his Assize of last presentment, the Question is, If the presentation of the usurper be not avoidable for two Causes: If the very Patron parson of the last presentment, be remitted. 2. If the presentment of the usurper, whereof the quare impedit is brought, and depending, be sufficient to maintain the presentment against the Patron.

M. 22. and 23. Eliz. Rot. 103. Ford, Middlesex, ss. between A. and P. judgment in an Assize, de Moridancester.

T 7. Ja. Rot. 36. Assize de Novell disseisin for the office of an Herald at Armes amongst the pleas of Land.

T. 3. Eliz. Rot. 1017.

P. 15. Ja. Rot.
17. Amongst
the pleas of
land *Plac*
against
Holford Assize
de Novell dissei-
sin, take by
default, and
judgement
and seisin.

P 8. Jac. Rot. 31. Amongst the pleas of land, Crompton Middlesex, ss. T. C. brought an Assize de Novell disseisin, against E. B. of his free tenement, in the parish of S. Martins in the feilds, within 30. yeares, &c. And whereupon the said T. C. by W. A. his Attorney, complaineth, that the said E. disseised him of the office of keeping the Clock of the Prince the Lord Henry: son of the said Lord the King that now is, with the appurtenances, and for title of the free tenement of the office aforesaid, and for having of the Assize, the said T. saith, That the said Lord the King that now is, long before the day of obtaeyning of the said originall writ of Assize, to wit, the 23 day of I. in the seventh yeare of his reign over England, France and Ireland, and over Scotland, the two and fortieth, at Westminster in the County of Middlesex, by his Letters Patents, &c. and so set forth the Letters Patents at large, in consideration of the skill, and experience in that Art, thought him to be fit to keepe the Clock of the said Prince, and so was sworn, and executed it without any fee or allowance, and eleven shillings for salary, and sixty six shillings eight pence yearly, for a livery, for terme of his life, out of the treasury of the said Lord the King, at the receipts of the Erchequer, at four feasts, &c. By vertue of which Letters Patents the said T. afterwards, to wit, the 24. day of J. An. of the reign of the said Lord the King that now is, over England, France, and Ireland, the seventh abovesaid, at the parish of S. Martins in the feilds, assumed and took upon him that office, and had and occupied the same office with the appurtenances, and was thereof seised in his demesnes, as of his free tenement for terme of his life, in the parish aforesaid, untill the said E. him the said T. thereof unjustly and without judgment disseised, and thereof he prayeth Assize, &c.

P 6. J. Rot. 26. Brownlow, Middlesex, ss. The Assize came to Recognize if T. C. Esquire, unjustly and without judgment disseised A. A. of his free tenement in Westminster, within thirty yeares, &c. And whereupon the said A. by A. H. his Attorney, complaineth, that the said T. disseised him of his office, or place of Saddle-maker of the Lady the Queen, now Queen of England, the deat consort of the Lord King that now are, and of the Lord H. the

H. the renowned son of the said Lord the King, that now is : And for title of his free tenement, and to have thereof an Assize, the said A. saith, that the said Lord the King that now is, the 19 day of July, in the year of his reign, over England, France, and Ireland, the first, and over Scotland, the 36. at Westminster aforesaid, by his Letters Patents, which the said A. sealed with his great Seale of England, bringeth here into Court, which are dated at Westminster aforesaid, the same day and year, granted to the said A. by the name of his loving servant, A. A. and the office and place of Saddle-maker, of the said Lady the Queen, and of the Lord H. sonne of the said Lord the King, now by the name of H. Prince of Wales, to have, hold, and exercise, the place or office aforesaid, aswell by himselfe, as by his Sufficient deputy, or deputies, during the natural life of the said A. with all fees, duties, profits, prebiledges, and advantages, to the same place or office belonging, or in any manner appertaining : By vertue of which said Letters Patents the said A. had and exercised the place or Office aforesaid, and received, and had the fees and profits to that Office or place belonging ; that is to say, taking for the making of every velvet Saddle, for the said Lord H. son of the said Lord the King that now is, sixty shillings due to him for fees, in this behalfe. And the said A. was seised of the said Office, or place in his demesne, as of his free tenement, for terme of his life, untill the said T. the said A. thereof unjustly, and without judgment disseised, and he prayeth, that it may be proceeded to the taking of Assize, &c. And the said T. being solemnly called, came not, but made default : and for that the Sheriff, to wit, G. E. and N. S. now refozne, that, he had nothing in his Walywick, whereby he could be attached, nor hath Bailiffe, or Bailiffes, &c. Therefore he is in mercy, &c. And let the Assize be taken against him by default, &c. but let the Assize remaine to be taken here, until friday next after the morrow of the holy Trinity, for defect of Recognitors, because none came. Therefore shew let the Sheriff have the bodies of the Recognitors, and in the meane tyme, &c. the same day is given to the said A. here, &c.

T 16. Eliz. Rot. 1348. At which day here cometh the said T. B. by his Attorney aforesaid, and hereupon the premisses being seen, and by the Justices here fully understood, it seemed to the said Justices here, that the said Evidences on the behalfe of the said T. B. in maintaining of the said Assize, to the Recognitors aforesaid above shewed, are sufficient in law to maintaine his said Assize, as the said T. B. hath above alleadged. Therefore it is considered, that the said T. B. do recover against the said I. P. and H. S. his presentation to the Vicarage of the Church aforesaid, and that he have a writ to the Bishop, Ordinary of that place, that notwithstanding the gain saying of the said I. P. and H. S. to the presentation of the said T. B. he admit of a fit person to that Vicarage. And the said I. P. and H. S. in mercy, &c. It is also considered that the said T. B. recover against the said I. P. and H. S. his damages, by occasion of the disseisin aforesaid, but because it is not known, whether the said Vicarage of the Church be full, or not, neither whether the time of six Moneths have passed from the time wherein that Vicarage first began to be vacant, nor how much that Vicarage is worth by the year, according to the true value of the same, nor what damages the said T. B. sustained by occasion of the aforesaid disseisin ; It is commanded the Sheriff, that by the oath of honest and lawfull men of his Walywicks, he diligently inquire, whether the Vicarage aforesaid be full or not, and if it be full, then at whose presentation, or of whom it is full, and how much time is past from the time wherein the same Vicarage began to be vacant, and how much that Vicarage is worth by the year, according to the true value thereof, and what damages the said T. B. sustained, aswell by occasion of the said disseisin, as for his costs and charges by him about his suite in this behalfe

halfe laid out : And the inquisition which, &c. the Sherifff make appeare here in the morrow of the holy Trinity, under his Seale and Seales, &c. the same day is given to the said T. B. here &c. And in the meane time let execution of the said Writ to the said Bishop cease to be had, and then it was continued further untill in eight dayes of S. Michael. Anno. 18. and 19. At which day the plaint aforesaid was adjourned by the Writ of the said Lady the Queen, of Common adjournment here until this day, to wit, from the day of S. Martin, in fifteen days then next following, and now here at this day came the said T. B. by his said Attorney, and the Sherifff, to wit, R. L. Esquire, now returned here his Inquisition befoze him at N in the Countie aforesaid, the tenth day of October last past, by the oath of twelve, &c. taken, by which it is found, that the Vicaridge of the Church aforesaid, is full, of the same H. C. Clerke, of the presentment of the said Lady the Queen, and that the said Vicaridge first began to be void the twentieth day of June, An Reg. 15. And that three years and seventy two dayes, are elapsed from the time in which the said Vicaridge first began to be void : And that the said Vicaridge is worth by the year, according to the true value of the same, twelve pounds : and that the said T. B. sustayned damages, by occasion of the said disseisin, besides his costs, and charges by him about his suite, in this behalfe laid out, to 20 l. and for those costs and charges to 100 s. Wherefoze it is considered that the said T. recover against the said H. and I. his said damages to twenty five pounds, by the Inquisition aforesaid abobe found, and also ten pounds to the said T. at his request for his costs and charges by the Court here adjudged of increase, which said damages in the whole, do amount unto thirty five pounds : And the said I. and H. in mercy, &c. See the new book of Entries fol. 62. a. such judgment.

M 38. and 39. Eliz. Rot. 196. Assize between Cromwel and Andrewes, and afterwards certified into the Kings Bench by a Writ of Error.

M 3. Ja. Rot. 124. Assize sent in to the Kings bench for rent, issuing out of lands in Gavelkind.

P 10. Ja. Rot. 81. Assize of Nulance sent into the Kings Bench.

T 3. Eliz. Rot. 1013. Assize of Novell disseisin, sent into the Kings Bench.

P 4. Eliz. Rot 1039. Another Assize sent, &c.

T 28. Eliz. Rot. 86. Error in Assize.

Attaint.

T He Jury of four and twenty Knights, of the bench of the City of Exeter, in the County of the City aforesaid, to convince the twelve Jurors of the first Inquisition, of a plea of Trespass and assault, comes to recognize, whether the Jurors, by whom a certain Inquisition was given for the defendants in the Attaint and Juros.

Attaint upon
the Stat. of
Hen. 8. cap.
to convince
the Jurors in
the City of Exeter,
a verdict was
given for the

late

lately summoned and taken, in the Court of the Lord the King, of the Guildhall of the City of Exeter, holden at the City of E. aforesaid, in the Guildhall there, according to the Custome of the same City, from the time whereof the memory of men is not to the contrary, before R. M. then Mayor of the City aforesaid, and R S A P T F. and H E Bailiffes of the same City, without the Wit of the said Lord the King, between I B plaintiff, and I D Gentleman, defendant of a certain trespass, and assault to the same I B, by the aforesaid I D lately done, as it was said, have made a false oath, as the same I D to the Lord the King greatly complaining hath shewed or noe elsewhere as it appeareth, And now at this day, that is to say, in the morrow of S Michael, this same Term, before the Lord the King at Westminster, come, aswell the aforesaid I D by Tho S his Attorney, as the said I B by W C his Attorney, and E A E D R L T H G B I R H P R S N T I A W H and I T twelve of the Jurors of the first Inquisition aforesaid, being resummoned and the fourth day of the plea solemnly called, by W C their Attorney, likewise came. And hereupon aswell the aforesaid I B as the said twelve Jurors, of the first Inquisition aforesaid, doe pray the hearing of the aforesaid Wit of Attaint and to them it is read, &c. They pray also the hearing of the record, whereupon the same Wit did issue forth, and to them it is read, in these wordes, The City of Exeter sh. Pleas, in the Court of the Lord the King, in the Guildhall of the City of E aforesaid, holden at the City E in the Guildhall, &c. before A B Mayor of the said City, I P I M R T and S O Bailiffs of the same City, on munday, that is to say, the fiftenth day of A in the twelfth year of the raigne of our Lord Charles, by the grace of God, of England, Scotland, France, and Ireland, King Defendoz of the Faith, &c. At this Court came I B in his proper person, and affirmed a certain plaint against I D Gentleman, of a plea of trespass and assault, and found Pledges to prosecute his plaint aforesaid, namely, I D and R R; And hereupon the same I B prayed a proces to him to be made, against the aforesaid I D according to the custome of the City aforesaid, &c. Therefore it is commanded the Serjeant of the said Lord the King at mace, of the City aforesaid, and Minister of the Court aforesaid, that hee should put under sureties, and safe pledges, the aforesaid I D, so that hee be at the next Court of the said Lord the King of the Guildhall of the City aforesaid, the day, that is to say, the 22 day of A next coming before the aforesaid Mayor and Bailiffs of the said City, according to the custome, &c. at the Guildhall of the City aforesaid, to be holden, to answer the said I B of the plea aforesaid, &c. The same day is given to the aforesaid I B here &c. And hereupon the same I B did put in his place N T his Attorney, against the aforesaid I D, of the plea aforesaid, &c. At which day, before the said Mayor and Bailiffs of the said City here, came aswell the aforesaid I B by his Attorney aforesaid, as the said I D in his proper person, And hereupon the same I B did find to the said Mayor and Bailiffs of the said City, sufficient mainpernors, and Pledges, according to the custome of the City aforesaid, namely, W T of the City aforesaid Cordwainer, and W B &c. who for him, did undertake that hee shall stand right in the Court aforesaid, upon the plaint aforesaid, and shall make default at noe day to him by the same Court thereof given, nor shall hee withdraw himselfe nor absent himself from the execution of the Judgment of the plaint aforesaid, if it shall be given against him, upon pain of incurring the same execution, of their Bodies, Lands, and Chattells, to be made, if it happen the said I D at any day of the plea thereof to make default, or to absent himself, to receive and expect the execution of the judgment given against him &c. Whereupon the aforesaid I D by those mainpernors, according to the custome of the City aforesaid, is enlarged upon Baile, And hereupon the same I D according to the custome of the City aforesaid, doth put in his place I B his Attorney against the aforesaid I B of the plea aforesaid, &c. The City of Exeter sh. Pleas in the Court of the Lord the King of the

Note, that before this writ ought to be allowed, the plaintiff is to put in sufficient bailes, as well to prosecute as to pay, by two severall mainpernes, as it appeareth in this case be, twixt the parties, in Trin. 13. of King Charles.

the Guildhal of the City aforesaid, holden at the City of E in the Guildhal there, before the aforesaid Mayor and Bailiffs of the said City according to the Custome, &c. on munday, that is to say, the two and twentieth day of August, in the twelfth year of the reign of our Lord Charles, by the grace of God, of England, Scotland, France, and Ireland, King, Defendor of the faith, &c.

The City of
Exeter.

ID Gentleman, was attached to answer I B of a plea, wherefore with force and armes upon him, the said I B here at the City of E aforesaid, within the Iurisdiction of this Court, he made an assault, and him the said I B did then and there beate, wound, and evilly intreat, so that of his life it was dispaired, and other harmis to him did doe, to the great damage of the same I B and against the peate of the Lord the King that now is, &c. And whereupon, &c. by T N his Attorney complaines, that the aforesaid I D, such a day and year, with force and armes, that is to say, &c. at the City of E aforesaid, within the Iurisdiction of this Court, did make an assault, and him, &c. as in others, damages two hundred pounds, and thereof hee bringeth sute, &c.

And the aforesaid I D, by I D his Attorney, comes and Defendes the force and injury, when, &c. And prayes license to imparle thereunto here, until the next Court of the said Lord the King, of the Guildhall of the City aforesaid, before the said Mayor and Bailiffs of the said City, according to the custome, &c. on munday, that is to say, the nine and twentieth day of August, next coming, in the Guildhall aforesaid, to be holden, &c. And to him it is granted, &c. And the same day is given to the aforesaid I B here, &c. At which day here came, aswell the said I D as the aforesaid I B by their Attorneys aforesaid, and hereupon the said I D further prayes license to imparle thereunto here, until the next Court of the said Lord the King, of the Guildhall of the City aforesaid, before the said Mayor and Bailiffs of the said City, according to the custome, &c. on munday, that is to say, the fifth day of September next coming, in the Guildhall of the City aforesaid, to be holden, &c. And to him it is granted, &c. the same day, &c. And the plea hath diverse continuances, &c. on which said third day of October, in the abovesaid twelfth year of the raigne of the said Lord the King that now is, the said A B I P I M R T and S O were removed from their offices, namely, the said A B from the office of Mayorality of the City aforesaid, and the said I P, &c. from the office of Bailiffs of the same City, And R M in due manner was chosen and made Mayor of the City of Exeter aforesaid, A P T F R S and H E in due manner were chosen and made Bailiffs of the same City.

The City of
Exeter.

Pleas in the Court of our Lord the King of the Guildhall of the City aforesaid, holden at the City of Exeter in the Guildhall of the City aforesaid, before the said Mayor and Bailiffs of the same City last named, according to the Custome, &c. on munday, that is to say, the third day of October, in the twelfth year of the reign of our Lord Charles by the grace of God, &c.

The City of
Exeter.

ID Gentleman, was attached to answer I B, &c. and count in battery as before, damages two hundred pounds &c.

And the aforesaid I D by I D his Attorney comes, &c. And as to the coming with force and armes, or whatsoever that is against the peate of the Lord the King that now is, the same I D saith, that he is in nothing guilty thereof, and of this he puts himself upon the Country, and the aforesaid I B likewise, and as to the residue of the trespass and assault aforesaid abode supposed to be done, the same I D saith, that the aforesaid I B actio non, &c. because he saith that the aforesaid, I B the day and year abovesaid, in the declaration aforesaid, abode specified, with force and armes, &c. upon him the said I D at the City of

of E and within the Jurisdiction of this Court, did make an assault, and him would have beaten, wounded, and evilly intreated, whereby the same I D, did then and there defend himself against the aforesaid I B, and saith, that if any damage or evil did then and there come to the said I B, that was of the proper assault of him the said I B, and in defense of him the said I D, and this, &c. whereupon, &c.

And the aforesaid I B saith, that he by any things before alleadged, ought not to be barred from having his action aforesaid, against the aforesaid I D, because he saith, that the aforesaid I D, the day and year abovesaid, in the declaration aforesaid, above specified, with force and arms, &c. of his own wrong and without the cause by him the said I D above alleadged, at the aforesaid City of Exeter, within the Jurisdiction of this Court, upon him the said I B did make an assault, and him did beate, wound, and evilly entreat, so that of his life it was despaired, against the peace of the said Lord the King that now is, as the same I B above, against him complaineth, and this he prayses that it be inquired by the Country, and the aforesaid I D likewise. Therefore it is commanded the Sergeants of the said Lord the King at Gate, of the City aforesaid, and Ministers of the Court aforesaid, that they according to the custome of the City aforesaid, from all the time abovesaid, &c. cause to come here at the next Court of the said Lord the King, of the Guildhal of the City aforesaid, before the said Mayor and Bailiffs of the said City last named, according to the custome, &c. on munday, that is to say, the tenth of October next coming, at the Guildhal of the City aforesaid, to be holden the twelfth, &c. of the venew of the City of Exeter aforesaid, and within the Jurisdiction of this Court, by whom, &c. and who neither, &c. to recognize, &c. betwixt aswell, &c. at which day here came the parties, &c. and the aforesaid Sergeants at Gate, did not send here the precept aforesaid, Therefore as before it is commanded the said Sergeants, that they cause to come here at the next Court of the said Lord the King, of the Guildhal of the City aforesaid, before the said Mayor and Bailiffs of the said City last named according to the custome, &c. on munday, that is to say, the seventeenth day of October next coming, at the Guildhal of the City aforesaid to be holden, the twelfth, &c. of the venew, &c. to recognize in form aforesaid, &c. and hath many continuances, At which day here come, aswell the aforesaid I B, as the said I D by their Attorneys aforesaid, and the aforesaid Sergeants of the said Lord the King, at Gate of the City aforesaid, and Ministers of the Court aforesaid, did send here their precept aforesaid, in forme aforesaid, directed in all things served and executed, returned together with the pannell of the names of the Jurors betwixt the parties aforesaid impannelled: And that every one of those Jurors aforesaid, by himself was severally attached, by Pledges I D and R F and the Jurors of that Jury, whereof within there is made mention, being solemnly called likewise came, namely, E A, &c. as they are named in the pannell, who to speak the truth of the premises above contained, being chosen, tryed, and sworn, do say, upon their oath, that the aforesaid I D of his owne wrong, with force and armes, &c. upon the said I B did make an assault, and him did beate, wound, and evilly intreat, as the same I B above against him complaineth, and they assesse the damages of him, the said I B by occasion of the trespass, and assault aforesaid above his expences, and cosses by him about his suite, in this behalf laied out, to an hundred and thirty poundes, And for those expences and cosses to ten shillings: And hereupon the said I B by his Attorney, prayses judgment of and upon the verdict aforesaid, to be given for him, &c. And because the Court of the said Lord the King here of their judgment of and upon the premises to be given is not as yet advised, Day thereof is given to the parties aforesaid here, untill the next Court, &c. on munday that is to say, the six and twentieth day of D next coming, at the Guildhal of the City aforesaid,

said, Before the said Mayoꝝ and Bailiffs last named, to be holden, &c. of hearing their indgment aforesaid, of and upon the premises, for that, that the Court of the said Lord the King hear thereof not as yet, &c. At which day here came the aforesaid I B by his Attoꝛney aforesaid, and hereupon the premises being seen, and by the same Mayoꝝ and Bailiffs of the said City last named, moꝛe fully understood, It is considered that the aforesaid, I B do recover against the aforesaid I D his damages aforesaid, by the said Juroꝝ, in forme aforesaid assessed, and also thirty four pounds to the same I B at his request, &c. Which said damages in the whole do amount to an hundred thirty two pounds and four shillings: And the aforesaid I D be taken, &c. which being read and heard, aswell the said I B as the aforesaid twelve Juroꝝ, of the said first Inquisition, do pray, that the said I D may assigne the false oath if any, &c. And hereupon the same I D saith that the said twelve Juroꝝ of the first Inquisition have made a false oath in all things, which they have before said against the aforesaid I D now the plaintiffe, of the premises and this he is ready to verifie by the aforesaid Jury of four and twenty Knights, &c.

And aswell the said I B as the aforesaid twelve Juroꝝ of the said first Inquisition say, that the same twelve Juroꝝ of the said first Inquisition did make a good and lawfull oath in all thinges, which they have said, and of this they put themselves upon the aforesaid Jury of four and twenty Knights, and the said I D likewise, &c. Wherefore let consideration be taken thereof betwixen them the Jury of four and twenty Knights, &c.

M 34. and 35. Eliz. Rot 303 Brownlow, Otherwise as it appeares in the terme of the holy Trinity, Anno, 34. Eliz. Rot. 1713. it is thus contained. Bedford s^t A Jury of twenty four Knights, of the neighbourhood, of Clophill come to recognize if the Juroꝝ, by whom a certain Inquisition was lately summoned before the Lady the Queen at Westminster, by bill, without writt of the said Lady the Queen, between E F Gentleman and R L of a certaine trespassse to the said E by the said R done, And afterwards before the beloved and faithfull of the said Lady the Queen C W Knight, Cheife Justice, &c. and W P one, &c. Justices of the said Lady the Queen, assigned to take the Assize in the County aforesaid, by writt of the said Lady the Queen of Nisi prius, according to the forme of the statute, &c. at Bedford in the County aforesaid taken, have made a false oath, as the said R grievously complaining, to the said Lady the Queen sheweth, or not. And now here at this day, to wit, in the morrow of the holy Trinity, here came, aswell the said R by E F his Attoꝛney, as the said E F by W P his Attoꝛney, and T P of I W of G &c. twelve Juroꝝ of the said first Inquisition, by W P their Attoꝛney, likewise come, and hereupon, aswell the said E F, as the said twelve Juroꝝ of the said first Inquisition, pray the hearing of the said writt of Attaint, And it is read unto them, &c. and also pray the hearing the Record, whereupon the said writt issued: The tenor of which said Record, sent here by writt to the Justices of the said Lady the Queen, and inrolled here in Court upon Record, is read unto them in these wordes. Pleas before the said Lady the Queen at Westminster, in Easter terme, 31. Eliz. Rot 315. Bedford. be it remembered that otherwise, to wit, at Westminster, in Hillary terme last past, before the said Lady the Queen, came E F Gentleman, by E W his Attoꝛney, and brought here into the Court of the said Lady the Queen, then there, a certain bill against R L in custody of the Marshall, &c. of a plea of trespassse, and there are Pledges, &c. which said bill followes, in these wordes, s^t Bedford s^t E F Gentleman complaineth of R L in custody at the Marshall of the Marshalsey, of the said Lady the Queen, before the same Queen being, for that he, the tenth day of Aprill Anno. Reg. thirty one, with force and Armes, the Close of the said E at C in the County aforesaid, in a certaine place there called B meadowe, broke and entred

P. 44. Eliz. rot.
19. 13. & T. 29
Eliz. rot. 18.
45. & T. 21.
Eliz. rot. 810
For Bird against an informer and petty jury upon an information upon the statute of usury.
P. 32. Eliz. rot.
1016. iducin
attaint.
11 Eliz. rot.
805. T. 3. Eliz.
rot. 821. T. 38.
Eliz. rot. 2802
M. 19 & 20.
Eliz. rot. 615.

entred and the grasse of the said E then and there growing to the value of ten pounds with certain Cattell, to wit Horses, Oxen, Cowes, Swine, and Heifers, did eat up tread down, and consume, Continuing the trespass aforesaid, as to the eating, treading down, and consuming the grasse aforesaid, from the said tenth day of April, Anno. 31 above said, until the Feast of S Michael then next following, at divers times and seasons, and other wrong, &c. to the damage of the said E of ten pounds: And thereupon he bringeth suit, &c. And now here at this day, that is to say, on Wednesday next, after fifteen dayes from Easter, that same term, until which day the said R had licence to imparle &c. and then to answer, &c. before the said Lady the Queen at Westm. came aswell the same E F by his Attorney, as the same R L by T T his Attorney, and the said R defends, &c. And saith, that he is not thereof guilty, and of this he putteth himself upon the Country: And the said E F likewise, Therefore let a Jury thereof come before the said Lady the Queen at Westminster, upon Friday next after the morrow of the holy Trinity, and who neither, &c. to recognize, &c. because aswell, &c. the same day is given to the parties aforesaid here, &c. afterwards processe being continued between the parties aforesaid, upon the said plea is respited, before the said Lady the Queen at Westminster untill Friday next after eight dayes of S Michael, then next following, unless the Justices, &c. for want of Jurozs, &c. At which day, &c. before the said Lady the Queen at Westminster, came the parties aforesaid by their said Attorneys, And the said Justices of Assize, before whom, &c. sent here their Record, before them had in these words ff. afterwards at the day and place within contained before C W Knight, Cheife Justice, &c. and W P Justice, &c. according to the forme of the Statute, &c. came as well the within named E F, as the within writen R L by their Attorneys, within named, And the Jurozs of the Jury whereof mention is within made, being called, came, And whereupon the said R Challenged the array of the said Pannel, because he saith, That that Pannel was made and arrayed by O St John Esquier then and there Sherife of the said County and his ministers, And that the said Sheriffe is of kindred to the said E F, to wit, the son of Oliver Lord St John, of B and Agnes his wife, daughter of M F Knight, brother of R F father of R F father of the said E F now plaintiffe: And this he is ready to verifie, whereupon he prayeth judgment. And that the said Pannell may be quashed, &c. and altogether taken for nothing, which said Challenge the said E F doth not gainsay, but confesseth the same to be true: Therefore it is considered, that the said Pannell be quashed, vacated, and taken altogether for nothing; And it is commanded the Coronors of Bedford aforesaid, that, of new, they cause to come in eight dayes of S Hillary, twelve, &c. to try the said issue, between the said parties, of the neighborhood aforesaid, by whom, &c. because aswell, &c. the same day is given to the parties aforesaid, here, &c. Afterwards the processe being continued, &c. is respited before the said Lady the Queen at Westminster, untill in eight dayes of S Michael, then next following, unless the Justices &c. according to the forme of the Statute, &c. came for want of Jurozs, &c. At which day, &c. before, &c. came the said E F by his said Attorney, and to the said Justices of Assize before whom, &c. sent here this Record before, them, had in these words, ff afterwards at the day and place within contained, before C W Knight, &c. and W P Justice, &c. according to the forme of the Statute, &c. came the within named E F by his Attorney within contayned, and the within written R L although solemnly called, came not, but made default; therefore the Jurozs of the Jury, whereof mention is within made, finde against him by default, and hereupon the said Jurozs of the said Jury called came, who being elected, tried, and sworn to speak the truth, of the within contained, say upon their oath, that the said R L is guilty of the trespass within specified, as the said E F within against him complaineth, and they assesse damages of the said E F, by occasion of that trespass, besides his costs and charges, by him

P. 15. H. 6. rot. 322. Attaint, the Plaintiff findes sureties to the Justices H. 17 Eliz. rot. 949. rot. 730. H. against C. Attaint brought upon a judgment given upon an Attachment of privilege H. 16. Eliz. rot. 730. Attaint in London.

Taken.

about his suite in this behalfe laid out, to ten shillings, and for those costs, and charges to twelue pence. Therefore it is considered that the said E F recover against the said R L his said damages by the Jury aforesaid, in forme aforesaid assessed, and also seven pounds for his costs and charges aforesaid, to the said E by the Court of the said Lady the Queen, here by his assent adjudged of increase, which said damages in the whole doe amount unto seven pounds eleven shillings, And the said R L be taken, &c. which being read and heard, aswell the said E F as the said twelue Jurors, of the first inquisition referring to themselves all and every advantages, exceptions, and allegations to the writ aforesaid, they pray licence to imparle here, untill in eight dayes of S Michael and haue it, &c. the same day, &c. And so it is adjourned untill the morrow of all Soules here, &c. And now here at this day, to wit, at the Castle of Hertford came aswell the said R L by the said E F his Attorneys as the said E F and the said twelue Jurors of the first Inquisition aforesaid by the said W P. their Attorneys, And hereupon, aswell the said E F as the said Jurors of the first Inquisition pray that the said R L may assigne the false oath, if there be any, And the said R saith, that the said twelue Jurors of the first Inquisition aforesaid made a false oath in all things which they abovesaid against the said R L And this hee is ready to verifie by the Jury of 24 Knights, &c.

Assd aswell the said E F as the said twelue Jurors of the said first Inquisition say that the said twelue Jurors of the first Inquisition aforesaid made a good and lawfull oath in all things which they abovesaid against the said R L And upon this they put themselves upon the said Jury of 24 Knights And the said R L likewise, therefore that Jury of 24 Knights be taken thereof betwene them, &c. but is respited here untill in eight dayes of S Hillary, for want of Jurors of the said Jury 24. Knights, it was otherwise commanded the Sheriff, that hee distrain the said Jury of 24 Knights by all their land, &c. And that of the issues, &c. so that hee have their bodies here, to wit, at &c. at the aforesaid terme, to make that Jury of 24 Knights, the same day is given as well to the said R as to the said E and also to the twelue Jurors of the first Inquisition here, &c. And it is to be known that the Justices here have delivered a writ thereof to the said Sheriffs Deputy of the County aforesaid in forme of law to be executed by Proclamation, according to the forme of the Statute, &c.

P 4. Eliz. rot. 532. A Certiorare to certifie a Record, whereupon an Attaint is brought.

The Plainriff
in an attaint
is non-suited,
and admitted
to his Fine.

T 5 Eliz. Rot 1063. Attaint upon a Record in the Kings Bench betwene W A plaintiffe, and R T and L M in Keplebin, that they made a false oath &c. the plaintiffe nonsuited afterwards, to wit, such a day then next following, came here in Court, one I on the behalfe of the said R and L and pray, that the said R & L by occasion of the premises may be admitted to make their fines redemption with the Lady the Queen now: And both of them upon payment of fifty shillings in Court, into the hands of T F, &c. as in others, &c. Therefore the same R and L goe thereof quiet, &c.

P 8. H. 6. Rot. 33. Attaint upon Post Disseisin P 13. E. 4. Rot. 243. Attaint upon redisseisin M. 9. E 4 Attaint upon an Inquisition in wast M 3. H. 4. Rot. 29 M 35. H 6. Rot 579 appeale in mayem in the Kings Bench, T. 4. H. 5. Rot. 114. Nisi prius in Attaint M. 24. and 25. Eliz. Rot. 137. and 121 Attaint in the Comon Bench, upon a Record sent out of the Kings, into the Comon Bench, but of Chancery M 34 Eliz. Rot 45 Attaint upon judgment in Alike Nobel disseisin P. 32 Eliz Rot 1143 betwene C and the Carle of Bedford the same terme Rot 115 betwene Percy and Barber P 1. Ja. Rot. 304. betwene Crosse and Tyrell issue in Attaint P. 33. Eliz. Rot. 99. amongst the pleas of Land. Attaint upon a verdict in Alike

Assize M. 8. and 9. Eliz. rot. 2030. H. 26. H. 6. rot. 135. Attaint upon an Assize for rent P. 4. E. 4. rot. 350. and P. 34. Eliz. rot. 1618. Summons and severance in Attaint upon a Record sent hither out of the Par-
shalley by mittimus. M. 25 H. 6 rot. 113 T. 38 H. 8 rot. 524. Attaint directed to the Coronors, M. 29 and 38 Eliz. rot. 1624. Resummons in At-
taint. M. 2 H. 6 rot. 592. Attaint for detayning of writings, &c. M. 7 and 8 Eliz. rot. 1128 T. 24 Eliz. rot. 2112. M. 24 H. 8 rot. 332. Attaint in Assize against terr tenants M. 22 H. 6 rot. 335 judgment in Attaint against the Plaintiff. H. 35 H. 6. rot. 424. Abatement in a Writ of At-
taint T. 5 H. 4 rot. 120. Attaint in an Assize of fresh force, P. 6. H. 4. rot. 306. M. 2. H. 6. rot. 338. Attaint de minus parvis vel minus altis, dampnis S. 5 H. 4 rot. 105 utlary pleaded in Attaint.

M 6 and 7 Eliz. rot. 1789. A Jury of 24 knights of the neighbor-
hood of E. came to recognize if Robert C. and Richard C. and R. W. Count in an
unjustly and without judgment disseised I. S. of his free tenement in E. with-
in thirty years last past before the first day of February Anno Reg. &c. 3. Attaint upon
And whereupon the said I. complaineth that the Jury Novel disseisin which
lately was summoned between them before our faithful and beloved R. C. before one lu-
late Serjeant at Law and G. G. Attorney general of the said Queen then
Justices assigned to take the Assizes of the said Lady the Queen, in the Coun-
ty aforesaid, at S. in the County aforesaid: And afterwards taken before our
faithful and beloved I. S. one of the Justices of the said Lady the Queen, as
signed to take the Assizes in the County aforesaid at C. in the County aforesaid,
said, by Writ of the said Lady the Queen, have made a false oath, &c. his death ta-
ken before a
new Justice, 7
Eliz. Dier tol.
235. Pl. 23.
Founded up-
on the Statute
of 8. B. 8.
And now here at this day, to wit, in eight dayes of S. Martin came, as well the said
I. S. by G. P. as the said Robert and Richard by T. B. their Attorney. And
also A. B. &c. twelve of the Jurors of the said Assize by the said T. B. their
Attorney came, and as well the said R. C. and R. W. as the said twelve Jurors
of the Assize aforesaid, pray the hearing of the said Writ of Attaint. And
it was read to them in these words, &c. And also pray the hearing of the same
Record from whence the same Writ issued, which said Record, together with
the proceedings thereof, by the said I. S. and G. G. to the Justices assigned
to take the Assizes in the County aforesaid, &c. by vertue of the Writ of the
said Lady the Queen thereof directed, now had, is in the Custody of I. S.
Esquire chief Clerk of the said Bench, here remaineth filed amongst the Re-
cords of, &c. And it is read unto them in these words, Pleas of Assize, &c.
reciting the whole Record. And the said R. C. and R. pleaded no wrong, no
disseisin. Therefore let an Assize be taken between them, &c. But let the
Assizes remain to be taken, for certain causes the said Justices hereto
moving until the next Assizes, held in the County aforesaid, the 19 day of Ju-
ly next following, whereupon the Sheriff was commanded, that he should have
the bodies of the Recognizors of that Assize before the said Justices at C. in
the aforesaid County of Surrey, the said 19 day of July next following, to
make a of that Assize. And that in the mean time, &c. The
same day is given to the said parties there to hear the of the said
Assize, before which day the said R. C. died, whereupon the said Lady the
Queen by her Letters Patents, bearing date the 25 day of January, in the
fifth year of her reign, assigned her beloved and faithful I. C. one of her Ju-
stices to hold Pleas before the said Queen and G. G. her Attorney general
her Justices to take all assizes of Juries and Certificates before any Justice,
by divers Writs of the Lords Phillip and Mary late King and Queen of Eng-
land, as by divers Writs of the said Lady the Queen, now in the County aforesaid,
said, &c. By vertue of which said Letters Patents the said R. S. and G. G.
Justices of the said Lady the Queen of Assizes met at C. aforesaid, the said 19
day of July Anno, &c. At which day before the said Justices at C. aforesaid
came as well the said I. S. in his proper person, as the said R. C. and R. W.
by

Hearing of
the Record of
Assize.

Assignment of
the false oath
specially.

Averment for
the value by
the Statute of
23. H. 8

P. 4. Eliz. rot.
506. Ranc. the
petty Jury in
a Writ of en-
try in the qui-
bus, the Plain-
eiff assign the
false oath and
aver the value
of the land to
be twenty
marks by the
year. *Dier*
Special issue
joyned.

A Writ of Sci-
fin awarded.

by their Attorneys aforesaid. And the said Recognizors, being called likewise, came, who being elected, tried and sworn, to speak the truth in the premises, say upon their oath, that the said R C and R W did not disseise the said I S of his tenements aforesaid, with the appurtenances, as the said R and R have above alledged. Wherefore it is considered, that the said I S take nothing by his said Writ, but be in mercy for his false claim therein, &c. And that the said R and R. go thereof without day, &c. which being read and heard, as well the said R and R, as the said twelve Jurors of the aforesaid Assize, pray that the said J S may assign the false oath if any, &c. And the said J S saith, that the said twelve Jurors of the Assize aforesaid made a false oath in this, that they said, that the said C and R W had not disseised the said J S of the tenements aforesaid, with the appurtenances, because he saith, that the said R C and R W unjustly, &c. disseised the said J S of the tenements aforesaid, with the appurtenances in manner and form, as he above against them had complained: And this he is ready to verifie by the said Jury of twenty four Knights, with this that the said J S will verifie, that the tenements aforesaid, with the appurtenances, are worth, and the day of obtaining the original Writ of Assize aforesaid, from the time of the judgment aforesaid given, were worth 40 li. and above, &c. And as well the said R C and R W as the said twelve Jurors of the Assize aforesaid, not gaining the said value of the tenements aforesaid with the appurtenances, say, that the said Jurors of that Assize have made a good and lawful oath, in that the said Jurors of that Assize have above alledged: And of this they put themselves upon the Country of the twenty four Knights: And the said J S likewise. Wherefore let the Jury of twenty four Knights be taken between them, &c. whereupon the said Jurors of the Jury of twenty four Knights, being called, came, who being elected, tried and sworn to speak the truth in the premises, say upon their oath, that the aforesaid twelve Jurors of the said Assize made a false oath in this that they said, that the said R C and R W did not disseise the said J S of the tenements aforesaid with the appurtenances, as the said J S hath above alledged. And they assessed the damages of the said J S by occasion of that Assize, besides his costs by him about his suit in this behalf laid out to 10 li. and for those costs and charges to 40 s. Wherefore it is considered, that the said J. S. recover his seisin of the tenements aforesaid with the appurtenances; and his said damages to 12 li. by the said Jurors of the Jury of twenty four Knights in form aforesaid assessed: And also 13 li. 6 s. 8 d. to the said J S at his request for his costs and charges aforesaid, by the Jury here of increase adjudged, which 8 d. damages in the whole do amount unto 25 li. 6 s. 8 d. And the said J C and J W be taken, &c. And further according to the form of the Statute made in the Parliament of H 8 late King of England, and in this case provided, upon which Statute the said J S brought his said Writ of Attaint, containing, that every of the said twelve Jurors of the said Assize, for that the said value of the tenements aforesaid is not contradicted, shall forfeit 20 li. whereof one moiety thereof shall be to the Lady the Queen, and the other to the said I S. And also that every of the said twelve Jurors of the Assize shall severally make their fine and redemption by occasion of the premises, to wit, the said A at twenty marks, the said B at ten marks, the said C at a hundred shillings, and the said M at twenty six shillings eight pence, by the discretion of the said Justices assessed. And also that none of the said twelve Jurors of the said Assize. And for the future, their oath shall not be accepted to be of any credit in any Court and the said twelve Jurors be taken, &c. And hereupon the said I S prayeth a Writ of the said Lady the Queen, to have made to him full seisin of the tenements aforesaid, with the appurtenances, to be directed to the Sheriff of the County aforesaid. And it is granted him returnable here in eight dayes of S. Hillary, &c.

Admeasurement.

T First lat. MCCCXIII. Brownlow. Otherwise as it appeareth in the Declaration
 Term of S M, in the 44 and 45 year of the reign of the Lady Eliz. late in admea-
 Queen of England, Roll MDCX. it is contained thus: H. H. TH the furement of
 younger, otherwise in the County aforesaid complained, that R L did unjustly Pasture.
 overcharge his common of pasture in W, so that he hath in the same moze
 Beasts and Cattell then he ought to have, and to him appertaineth to have,
 whereupon it was commanded the Sheriff, that justly and without delay he
 should cause to be admeasured that Pasture, so that the said R might not
 have in the same moze Beasts and Cattell then he ought to have, and unto him
 belongeth to have, according to his freehold which he hath in the same Town,
 and that the said I may have in that Pasture so many Beasts and Cattell as Recital of the
 he ought to have, and unto him belongeth to have, so that that plaint at the pe: pone.
 tion of the said I should be put here to this day, that is to say, in eight dayes of
 S M: And now here at this day, that is to say, the said eight dayes of S M cometh
 as well by the said I by I G his Attorney, as the said R by R S his Attorney.
 And whereupon the said I complaineth, that whereas he was seised of one mes-
 suage and forty acres of Land, with the appurtenances, in W aforesaid in his
 demesne as of fee, to which the said R hath and ought to have Common of pa-
 sture yearly, by the whole year, in the same Town; the said R unjustly hath
 overcharged that Common, so that he hath in it moze Beasts and Cattell then he
 ought to have, and unto him appertaineth to have. And so he saith, that the
 said R hath unjustly overcharged that Common of pasture. And prayeth admea-
 surement thereof to be made, &c. whereupon he saith by this, that the said R un-
 justly overchargeth that Common of pasture, and doth not admit admeasure-
 ment thereof to be made, he is the worse, and hath damage to the value of forty
 pound, And thereof he bringeth suit, &c. And the said R defendeth the force E 38. H 6.
 and wrong when, &c. and emparleth, until in the morrow of the holy Trinity rot. 495. or
 next generally, by several continuances the same day is given to the said I here, 515. the re-
 &c. And now here at this day, that is to say, in the said morrow of the holy Tri- cord of Ad-
 nity, cometh, as well the said I as the said R by their Attorneys aforesaid. And measurement
 hereupon the said J, as at first, by declaring against the said R, complaineth, that of Pasture
 whereas he is seised of the said messuage, and forty acres of land, &c. as above, brought into
 verbatim: And thereof he bringeth his suit, &c. the Bench out
 of the Chan-
 cery by W W
 against Earl
 W and the
 Prior of St.
 John of Ier-
 salem, &c.
 H 35. H 6.
 rot. 304.
 E 9 H 4.
 rot. 426
 H 19. H 6.
 rot. 330.
 E 18. H 7.
 rot. 104.
 E 3 and 4 P
 and M rot.
 833.

And the said R, as at first, defendeth the force and wrong when, &c. And the
 same Attorneys saith, that he is not informed, &c. as in others, until with-
 out defence: Therefore it is considered, that admeasurement thereof be made,
 &c. And it is commanded the Sheriff, that taking with him twelve free and
 lawful men of the County aforesaid, by whom the truth of the matter may
 be the better known: And who are not of kindred either to the said J nor the
 said R: And in his proper person he go unto the said Pasture to be admea-
 sured, and by the oath of them, in the presence of the said parties, if they will be
 present, he make to be admeasured that Pasture, so that the said R may not have
 in the same Pasture moze Beasts and Cattell then he ought to have, and unto
 him appertaineth to have, according to the freehold that he hath in the same
 Town. And that the said R may have in the said Pasture so many Beasts and
 Cattell as he ought to have, and appertaineth to have, according to his freehold
 which he hath in the same Town. And the admeasurement which he shall
 make thereof he make appear here in the morrow of St. Martin, under his
 Seal, and the Seales, &c. The same day is given to the parties aforesaid
 here, &c. At which day the said Plaint was adjourned by a writ of the Lord

the King of Common adjoznmēt from Westm. in the County of Midd. unto the City of W of the said Lord the King in the County of S, until the said morrow of S M: at which day here, that is to say, at the said City of W cometh the said I by his said Attorney, and the Sheriff nothing thereof hath done r. 15 dayes of Easter, thzee weeks of Tr. one month of M, at which day here cometh the said I by his Attorney aforesaid: And the Sheriff, that is to say, T H Esquire, now returneth here a certain admeasurment of the said pasture, between the said parties, by him the said Sheriff, by vertue of the said Writ, by the oath of twelue, &c. made in these words, An Inquisition indented, taken at W in the County of H the 14 day of Sept. in the year of the reign of the Lord Jac. by the grace of God, of England, Scotland, &c. defender of the faith, &c. that is to say, of England, France and Ireland the second, and of Scotland the thirty eighth, before T H Esquire, Sheriff of the County of H aforesaid, by virtue of a Writ of the said Lord the King of admeasurment of a Common of pasture in W aforesaid, directed unto the said Sheriff, and unto this Inquisition annexed, between the said I H the younger, Plaintiff, and R L Defendant, by the oath of T W Esquire, with 14 others, who say upon their oaths, that there are in the said Town of W two marshy grounds, whereof one is called, &c. containing, &c. so as in the Inquisition verbatim, see the Inquisition, until the day and year abovesaid, &c. Therefore it is commanded unto the said R L, that he remove out of that pasture all the Cattell which he hath in the same Pasture, besides the number limited by this admeasurment, under the penalty in the Statute contained, in this behalf made and provided, &c.

Amendment.

M 19 I of the
form in the
Declaration.

Against D, Debt brought against an Executor for sixty pounds. And the words, although often required the said sixty pound unto the said W, were omitted in the Declaration in the conclusion thereof. And after argument on both parties, it was amended by the Court, because it was only form and not substance: And afterwards verdict, and after Error brought, but before the Record was satisfied, M 15 Jac. rot. 3192.

M 19 I.

Debt brought by W, Executor of L, for twenty four pounds, on obligation dated 8 Oct. 41 Eliz. against T W, son and heir of T W: And there was omitted in the imparlance Roll, to which payment well and truly to be made, he bound himself and his heirs, M 18 I rot. 576, but in the judgment Roll which was H 18 I rot. 673, this clause was contained, but was interlined: And judgment was, by not informed, And a Writ of Error brought, and the Record removed. Harvy moved that this defect in the Roll of imparlance might be amended. H, W, and H, Justices, would not have it amended, but it was adjourned, in favour of M Clerk, to B chief Prothonotary, which made the omission in his entry: And the parties had day to attend the Court.

Audita Querela.

An Audita
querela upon
an escape (by
consent of the
Sheriff) of one
in execution.
Co. l. 8. 43.

The Lord the King hath sent to his Justices assigned to hold Pleas in the Court of the same Lord the King, before the King himself, his Writ close in these words, Charles by the grace of God, &c. To his Justices

Justices assigned to hold the Pleas before the King himself, greeting. Of the great complaint of N B, it is complained off, and shewed to us, That whereas W E late in our Court before us at Westminster, that is to say, in the Term of Easter, in the ninth year of our reign, by bill without our Writ, by the judgment of the same Court, had recovered against him the said N sixty pounds of debt, and also twenty and one shillings for his damages which he sustained, as well by occasion of the detaining of that debt, as for his expences and costs by him about his suit in this behalf laid out, whereof he was convicted, as it appeareth to us upon record. And whereas also the same N afterwards, that is to say, such a day and year, by vertue of our certain Writ of Capias ad satisfaciend. of and upon the judgment aforesaid, forth of our said Court before us at the prosecution of the aforesaid W G, before that time issuing, and to our Sherif of Devon. directed and delivered by E A Esquire, then Sherif of the same County at P in the said County, was taken, arrested, and in our prison, under the custody of the same Sherif, there, in execution for the debt and damages aforesaid, detained and kept. And albeit the aforesaid W G upon the full payment and satisfaction of the debt and damages aforesaid, did freely and voluntarily suffer him the said N to go out of the prison aforesaid, and from the custody of the aforesaid then Sherif at large, whither he would, whereby the same I N of the execution of the judgment aforesaid, and of and from the payment of the debt and damages aforesaid, by the Law of the Land, of this Realm of England hath been utterly discharged and acquitted. Nevertheless one W G Executor of the last Will and Testament of the aforesaid W G deceased, after the aforesaid suffering of the same N to go at large, that is to say, such a day and year, did now lately sue forth an Execution out of our said Court before us, of and upon the Judgment aforesaid, for the debt and damages aforesaid, and did unjustly procure him the said N to be again taken, arrested, and imprisoned in execution for the debt and damages aforesaid, to the great damage and greivance of him the said N, and against the law and custom of our Realm of England, as the same N by wayes and means which are fitting, is ready to instruct, whereupon he the said N hath most humbly besought us to have a speedy remedy to be applied unto him, We being willing to have done what shall be just, command you that the complaint of the said N in this behalf being heard, and having called before you the parties aforesaid, and others, whom in this behalf you shall perceive to be called forth, and having heard hereupon thereof their reasons, ye cause to be done to the said N full and speedy justice, as of right and according to the law and custom of our Realm of England shall be to be done: Witness our self at Westminster, &c.

The Lord the King hath sent to his Justices of the Bench his Writ close in these words, Charles, &c. To his Justices of the Bench greeting. Of the great complaint of I L L of S in the County of Deuon, we have understood, that whereas one N L in S in the County of Deuon, such a day and year at S aforesaid, as surety of the aforesaid N, and for the true debt of the same N by their certain bill obligatory, with their seals sealed, were jointly and dividedly holden and bounded to one W W in eighteen pound of lawful money of England, for the true payment of ten pounds of like lawful money of England, in manner and form following, that is to say, sixty shillings in or upon such a day, &c. and seven pound in or upon the feast, &c. next following the date of the Bill aforesaid. And whereas the aforesaid W in the Term, &c. such a day and year, &c. before our then Justices of the Bench aforesaid at Westminster, in the County of M then being, for that that the aforesaid ten pounds to the same W had not been paid of and upon the aforesaid bill obligatory, by the consideration of the same Court, had recovered against the aforesaid N the aforesaid eighteen pound, and also sixty shillings for his damages, which he had by occasion of the detaining of that debt. And the said W the same

The entry of
an Audita
querela upon
a release
brought by
one in prison,

Term,

Testar. capias
ad satisfac-

Term, &c. in the same our Court, before our then Justices at W. aforesaid, then being, of and upon the same Bill obligatory, by the consideration of the same Court, had recovered against him the said I the aforesaid eighteen pounds, by virtue of that Bill, and also, &c. And thereupon it was considered in the same our Court, that the aforesaid W should have but one only execution against the aforesaid N and I, or either of them, of the debt and damages aforesaid. And whereas also the aforesaid W afterwards, that is to say, such a Term, and year, did prosecute forth of the same Court, upon the Judgment aforesaid, against the aforesaid N in form aforesaid, given our certain Writ of testatum capias ad satisfaciendum against the same N, to the then Sheriff of the aforesaid County of D directed, by which we did command the same then Sheriff, that he should take the aforesaid N, if he had been found in his Bailiwick, and him safely he should keep, so that he should have his body before our then Justices at Westminster, in the Ucas of St. Martin then next following, to satisfy the aforesaid W of the debt and damages aforesaid: By virtue of which said Writ, one I D Esquire, then Sheriff of the aforesaid County of D, afterwards and before the return of the same Writ, that is to say, such a day and year at S aforesaid, in the aforesaid County of D, did take and arrest the aforesaid N, and him in his custody, in execution for the debt and damages aforesaid, against him the said N, so as aforesaid, recovered had had. And although the said N afterwards, that is to say, the said such a day and year, at S aforesaid, did satisfy the aforesaid W of the debt and damages aforesaid, And then and there out of the custody of the said Sheriff, with the assent, and by the commandment of the said W was suffered to go at large, whereby the same I, by the law of the Land, of the Judgment aforesaid was discharged. And afterwards the aforesaid W died, after whose death one I W Executor of the Testament of the aforesaid W now of late hath unjustly sued out an Execution against the same I, of and upon the Judgment aforesaid, and by virtue of a Judicial process forth of the aforesaid Court upon the Judgment aforesaid, issuing to the then Sheriff of D directed, hath unjustly procured him the said I, by the Sheriff of the same County to be taken, and in prison, for the debt and damages aforesaid, to be detained, to the great damage and grievance of him the said I L, whereupon he hath most humbly besought us for a fit remedy in this behalf, for him by us to be provided. And because we will not have the said I L in this behalf in any wise to be injured: And being willing to have that which is just to be done, We command you, that the complaint of the same I L in this behalf being heard, and having called the parties aforesaid before you, and heard thereupon their reasons, therefore ye cause to be done to the said I L fully and speedy justice, as of right, and according to the law and custom of our Realm of England, shall be to be done. Witness our self at W the thirteenth day of Feb. in the twelfth year of our Reign. Afterwards, that is to say, such a day and year one R L of D in the County of D, Gent. and W H late of, &c. came before F C Knight, one of the Justices of the Court of the Lord the King, here at his Chamber situate in Serjeants Inne in Fleet-Street, London, in their proper persons: And did undertake for the same I L, that is to say, both of the Banncaptours aforesaid, in the sum of seventeen pound, that the aforesaid I L do prosecute his Writ aforesaid with effect, until the Plea thereof shall be determined, and judgment thereupon shall be given. And if it shall happen the judgment in the plea aforesaid for the aforesaid W W to be given. That then the aforesaid I L do satisfy the aforesaid W W of the debt and damages aforesaid: Which said seventeen pound both of the Banncaptours aforesaid do acknowledge of their lands and chattels to be made, and to the use and behoof of the said W W, to be levied, if it happen the said I L in any of the premises to make default, and thereof in lawful manner to be provided. Which said Recognizance the aforesaid Justice afterwards, that is to say, such a day and year with his own hands did deliver here in Court to be inrolled

inrolled of Record: And because it is needful and expedient that the said W be forewarned before, that the Court of the said Lord the King here do proceed in this behalf. It is commanded the Sheriff of the aforesaid County of D, that he make known to the said W W, that he be before the Justices, of the Lord the King, of the Bench here in the Ucas of the holy Trinity, to shew whether he hath or knoweth to say any thing for himself; why the said I L of the execution of the debt and damages aforesaid, by occasion of the premises, ought not to be acquitted and discharged. It is also commanded the same Sheriff, that if the said I L, by that occasion and none other be detained in the prison of the said Lord the King of the aforesaid County of D, under the custody of the same Sheriff, then he suffer the same I L to go at large, &c.

Elsewhere, as it appeareth in the Term of the holy Trinity last past, roll 1648. it is contained thus: Elsewhere, as it appeareth in Easter Term last past, roll 787 it is contained thus. The Lord the King that now is, hath sent to his Justices of the Bench here, his Writ close in these words, Charles, &c. To his Justices of the Bench greeting: Of the great complaint of John Saige, late of Chulmeleigh in the County of Devon Peoman. We have understood, that whereas William Prowte elsewhere, that is to say, in the Term of the holy Trinity, in the eleventh year of our reign, by our original Writ to the late Sheriff of Devon directed, and in our Court before you returnable and returned, had impleaded the same J S, and some A W, and G M, by the names of J S, late of C in the County of D, Peoman, and G M, &c. of a plea of trespass and assault. And whereas also after the appearance of the said John A and G, to the Writ aforesaid, in our said Court before us, in the same Term of the holy Trinity in the abovesaid tenth year of our reign duly made the aforesaid W P, by L L, then his Attorney, in declaring upon his Writ aforesaid, did complain, that the aforesaid I S and A W, together with the aforesaid G M, the tenth day of S, in the tenth year of our reign, with force and arms, that is to say, with swords, staves and knives, upon the same W at Bampton had made an assault, and him had beaten, wounded and evilly intreated, so that of his life it was despaired: and other harmes to him had done, to the great damage of him the said W, and against our peace: And whereupon he then said, that he was the worse, & had damage to the value of an hundred pounds. And thereof he then brought suit, &c. And the aforesaid I and A, by I P then their Attorney, came, &c. And they then said, that they were in nothing guilty of the trespass and assault aforesaid, as the said W a bove against them did complain. And of this they did put themselves upon the Country, and the said W likewise. Therefore then it was commanded the Sheriff, that he should cause to come before you at West. in the County of M, from the day of the holy Trinity in three weeks then next following twelve, &c. by whom, &c. And who neither, &c. To recognize, &c. For that as well, &c. At which day the Jury between the parties aforesaid of the aforesaid plea was respited thereof betwixt them, before our said Justices at W aforesaid, until in the Ucas of S M then next following: Unless our Justices assigned to take Assizes in the aforesaid County of D, by form of the Statute, &c. on munday then last past at the Castle of E in the County aforesaid, had first come. At which said Ucas of S M in the abovesaid eleventh year of our reign before you in our Court of the Bench at W aforesaid, came the aforesaid W by his Attorney aforesaid. And our aforesaid Justices of Assizes before whom, &c. did then send to you at W aforesaid their Record in these words. Afterwards the day and place within contained before I F, Knight, Chief Justice of the Lord the King of the Bench, and I D, Knight, one of the Barons of the Exchequer of the said Lord the King, Justices of the same Lord the King assigned to take Assizes in the County of D, by form of the Statute, &c. came as well the within named

A Declaration in an *Audita querela* grounded upon a Release made to one of the three who made a joynr battery, and named in one Writ after a verdict against one, and before the day in the Bench.

The def. in the *audita querela* pleads no such record of the original Writ and recovery which was adjudged a double plea and naught by the Court.

W P, as the within writtten I S and A W, by their Attorneys within contained. And the Jurors of the Jury, whereof there is within made mention, being called, some of them, namely, J W, H T, and J S, came, and on the Jury aforesaid were sworn. And because the rest of the Jurors of the same Jury did not appear, therefore others of the bystanders, hereunto, by the Sheriff of the County aforesaid chosen, at the request of the said W P, and by the commandement of the Justices aforesaid, are newly apposed, whose names to the pannel within writtten are affixed, according to the form of the Statute in such case lately set forth and provided. And the Jurors so newly apposed, namely, E M, &c. being called likewise came, who being chosen, tried and sworn, to speak the truth of the within contents together, with the other Jurors aforesaid, formerly impannelled and sworn, as to the assault, beating and wounding, in the Declaration aforesaid, within specified, against the said J S, only they say upon their oath, that the aforesaid J S was thereof guilty, as the aforesaid W P within against him thereof complaineth: And assels the damages of him the said W P, by the occasion of that trespass, above his expences and costs by him about his suit in this behalf laid out, to fifty five pounds, and for those expences and costs to forty shillings. And as to the whole trespass and assault in the Declaration aforesaid likewise specified, against the aforesaid A W, the Jurors aforesaid further said upon their oath aforesaid, that the aforesaid A W was in nothing thereof guilty: As the same A W for himself hath alledged: Whereby then, that is to say, in the same our Court of the Bench aforesaid, before you it was considered, that the said W P should recover against the same J S his damages aforesaid, to 57 li. by the Jurors aforesaid; in form aforesaid asselled: And also 9 li. to the same W P at his request, for his expences and costs aforesaid, by our Court, before you of increase adjudged: Which said damages in the whole do amount unto 66 li. And the aforesaid I S should be taken, &c. And the aforesaid W P, in mercy for his false claim against the aforesaid A W, for that, that he, of the trespass and assault aforesaid, by the Jurors aforesaid, is above acquitted. And the same A should go thereof without day, &c. As by the record and process thereof in our said Court for Pleas, before us to be holden, assigned at Westminster aforesaid, by virtue of our *Writ De Errore corrigendo* there sent, and in its full strength and effect, not reversed or adnulled, remaining, it manifestly appeareth. And although the aforesaid W, after the verdict aforesaid, against the aforesaid J S, in form aforesaid, found by the name of W P, I B in the County of D^Wcester, the 27 day of Septemb. in the year of our Lord 1635, at B aforesaid, by his certain writting of Release, which the said J S, with the seal of the aforesaid W, signed in our Court of our Chancery, shewed forth, the date whereof is the same day and year, did remise, release and discharge; and for himself, his Heirs, Executors and Administrators, had remised, released and discharged, to the aforesaid G M, by the name of G M, of C in the County of D, *W*coll^r worker, of and from all and all manner of actions, as well real as personal, debts, suits in law, plaints, executions, trespasses and demands whatsoever, which the said W P, his Heirs and Executors might or ought to have against the same P for any cause or colour whatsoever, from the beginning of the world until the date of the aforesaid writting of release. And although also the aforesaid G W, in the aforesaid writting of release above named, and the said G M, in the original *Writ* aforesaid, above named, are one and the same persons, and not others nor divers. And although also the same I S, by the aforesaid P, together and jointly did to the trespass and assault aforesaid to the said W P: And for which the said W his *Writ* and Action aforesaid, against him the said I S, and the aforesaid A and P, in our Court aforesaid, jointly hath brought. And for which said intire trespass and assault aforesaid, at one time supposed to be done, and in one *Writ* specified, the aforesaid W, by the Law of the Land, ought or might recover, against the aforesaid A

and

and P, no other or more damages then the damages aforesaid, against the said I S, in form aforesaid recovered. As the same J S, by wayes and means convenient, is ready to instruct. Nevertheless, the aforesaid W P hath unjustly sued out an Execution of the Judgment aforesaid, of the damages aforesaid, against him the said J S, to the great damage and greivance of the same J S, and against the form and effect of his aforesaid writing of release. Whereupon the same J S hath besought us of a fit remedy to be provided for him in this behalf. And because we will not have the same J S to be injured in this behalf, we command you, that having seen and understood the aforesaid writing of release, and having called before you the said parties, and having heard hereupon their reasons, therefore ye cause further to be done in this behalf, what of right, and according to the law and custom of our Realm of England shall be to be done; Witness our self at Westminster, the sixth day of May, in the thirtieth year of our reign. And upon this the aforesaid I S, by F G his Attorney, comes here in Court the sixth day of May, this same Term, and sheweth forth here the aforesaid writing of release, whereof in the writ aforesaid above is made mention, The date whereof is the aforesaid 27 day of Sept. in the year of our Lord, 1635. abovesaid. And afterwards, that is to say, the eleventh day of M, in the thirtieth year abovesaid, one H S of L, near the Old Exchange, Merchant, F G of P in the County of D, Gent. and B W of H in the aforesaid County of D, Gent. came before R H, Knight, one of the Justices of the Court of the Lord the King, here at his Chamber situate in Serjeants Inne in Chancery lane, London, and in their proper persons did undertake for the same I S, that is to say, every one of the Manucaptors aforesaid, in the sum of 132 li. that the said I do prosecute his writ aforesaid with effect, until the plea thereof be determined, and judgment thereupon be given. And if it happen the Judgment in the Plea aforesaid for the said W P to be given, that then the said I S do satisfy the said W of the damages aforesaid, which said 132 li. every one of the Manucaptors aforesaid, do acknowledge of their lands and chattels to be made, and to the use and behoof of the aforesaid W P, to be levied, if it happen the said I S, in any of the premises to make default, and to be thereof in lawful manner convicted: Which said Recognizance the aforesaid Justice afterwards, that is to say, the eleventh day of May, in the thirtieth year abovesaid, with his own hands, did deliver to be enrolled of Record. Whereupon the said I prays a writ of the Lord the King to the Sheriff of D, to be directed, to cause to come here the said W P to answer of and upon the premises. And that the same S in the mean time do altogether surcease from whatsoever execution by pretence of the judgment aforesaid, by any writ whatsoever of the Lord the King, to him thereof directed, further to be done; and it is granted to him returnable here in the morrow of the holy Trinity, &c. And now here at this day, that is to say, the aforesaid morrow of the holy Trinity, come here into the Court, as well the aforesaid I by his Attorney aforesaid, as the said W P by L L his Attorney. And hereupon the said I saith, that the aforesaid W P at another time, that is to say, in the aforesaid Term of the holy Trinity, in the eleventh year abovesaid, by the aforesaid original writ of the said Lord the King that now is, to the aforesaid late Sheriff of D directed, and in the aforesaid Court of the said Lord the King, before his said Justices of the Bench here returnable and returned, had impleaded the same I, and the said A W, and G M late of C in the County of D, Peoman, and A W late of, &c. and G M late of, &c. of a plea of trespass and assault. And that after the aforesaid appearance of them the said I S and A to the writ aforesaid, in the aforesaid Court of the said Lord the King that now is, of the Bench here, before the said Justices of the same Lord the King, in the aforesaid Term of the holy Trinity, in the eleventh year abovesaid duly made, the aforesaid W P, by the said L L then his Attorney, in declaring upon his writ aforesaid, complained, that the said I S and A W,

together

together with the said G M, the aforesaid tenth day of September, in the tenth year abovesaid, with force and arms, that is to say, with swords, staves and knives, upon him the said W at B aforesaid had made an assault, and him had beaten, wounded and evilly intreated, so that of his life it was despaired, and other harms to him they had done, to the great damage of the said W P, and against the peace of the said Lord the King that now is, and whereupon he then said, that he was the worse, and had damage to the value of forty pounds, and thereof he then brought suit, &c. And the said I and A by the aforesaid P L, then their Attorney, came & defended the force and injury when, &c. and then said that they were in nothing guilty of the trespassse and assault aforesaid, as the said W above against them complained; and of that they put themselves upon the Country, and the said W likewise. Therefore then it was commanded the Sheriff, that he should cause to come here, that is to say, at Westminster aforesaid, in the aforesaid County of Midd. from the aforesaid day of the holy Trinity in three weeks then next following twelve, &c. by whom, &c. And who neither, &c. to recognize, &c. For that as well, &c. At which said day, the aforesaid Jury of the aforesaid plea was respited thereof betwixt them before the said Justices of the said Lord the King here, that is to say, at W aforesaid, until in the said Uras of St. M then next following; Unless the aforesaid Justices of the said Lord the King, assigned to take the aforesaid Assizes, in the aforesaid County of D, by form of the Statute, &c. on the aforesaid munday, the twentieth day of July then last past, at the said Castle of Exeter in the County aforesaid, had first come. At which said Uras of St. Michael in the abovesaid eleventh year came the aforesaid W by his aforesaid then Attorney. And the said Justices of the said Lord the King, at the Assizes aforesaid, before whom, &c. did then send to the aforesaid Justices of the said Lord the King that now is, of the Bench here, that is to say, at Westminster aforesaid, their said record in these words, Afterwards the day and place within contained before I F, Knight, Chief Justice of the said Lord the King, of the Bench, and I D, Knight, one of the Barons of the Exchequer of the said Lord the King, Justices of the same Lord the King, assigned to take Assizes in the County of D, by form of the Statute, &c. came as well the within named W P, as the within written I S, and A W by their Attorney within contained. And the Jurors of the Jury, of whom within there is made mention, being called some of them, namely, I W, H T, &c. came and on Jury aforesaid are sworn. And because the rest of the Jurors of the same Jury did not appear, thereof others of the bystanders, by the Sheriff of the County aforesaid hereunto, &c. as in the Judgment, tried and sworn as to the assault, beating and wounding in the Declaration aforesaid within specified against the said I S, only do say upon their oath, that the said I S was thereof guilty, as the said W P within against them did thereof complain. And they did assesse the damages of the same W P by occasion of that trespassse above his expences and costs by him about his suit in this behalf laid out to fifty five pound, and for those expences and costs to forty shillings. And as to the whole trespassse and assault in the Declaration aforesaid likewise specified against the aforesaid A W, the Jurors aforesaid did further say upon their oath aforesaid, that the said A W was in nothing thereof guilty, as the same A W for himself hath alledged, whereby then, that is to say, in the aforesaid Court of the said Lord the King, of the Bench aforesaid, here before the aforesaid Justices of the said Lord the King, here it was considered, that the said W P should recover against the aforesaid I S his aforesaid damages to fifty seven pound by the Jurors aforesaid, in form aforesaid assessor: And also the aforesaid nine pounds to the aforesaid W P at his request, for his expences and costs, by the aforesaid Court of the said Lord the King here of increase adjudged. And which aforesaid damages in the whole do amount to the aforesaid 60 li. And the said I S should be taken, &c. And the said W P in mercy for his aforesaid false claim against the aforesaid A W, for

W for that, that he, of the trespassse and assault aforesaid, by the Jurors aforesaid above is acquitted. And the said A should go thereof without day, &c. as by the aforesaid Record and Process thereof in the aforesaid Court of the said Lord the King for Pleas, assigned to be holden before the King himself at Westminster aforesaid, by virtue of the aforesaid Writ of the said Lord the King, De Errore corrigendo, there sent, and in its full strength and effect not reversed or adnihilated remaining, it manifestly appeareth. And although the aforesaid W P after the verdict aforesaid, against the said I S in form aforesaid, found by the aforesaid name of W P of B in the County of D, Weaver, the aforesaid twenty seventh day of September, in the year of our Lord 1635 abovesaid, at B aforesaid, by his aforesaid writing of Release, which the same I S, with the seal of the said W, signed into the aforesaid Court of Chancery of the said Lord the King that now is, did bring, the date whereof is the same day & year, did remisse, release and discharge, and for himself his Heirs, Executors and Administrators, had remitted, released and discharged to the said G M, by the aforesaid name of G M, of C in the County of D, Woolworker, of and from all and all manner of actions, as well real as personal Debts, Suits in Law, Plaints, Executions, Trespasses and Demands whatsoever, which the aforesaid W P, his Heirs and Executors might or ought to have against the same I for any cause or colour whatsoever, from the beginning of the world until the date of the aforesaid writing of Release. And although also the aforesaid G W in the aforesaid writing of Release above named, and the aforesaid G M in the original Writ aforesaid above named, are one and the same person, and not other nor divers. And although also the said I S and the aforesaid G together and jointly the trespassse and assault aforesaid to the said W P did do, and for which the said W did jointly bring his Writ and Declaration aforesaid against the same I S and the aforesaid A and P, in the aforesaid Court of the said Lord the King: And in which said intire trespassse and assault aforesaid, at one time supposed to be done, and in one Writ specified, the said W by the Law of the Land ought or may recover against the said A and G none other or more damages then the damages aforesaid against the said I S in form aforesaid recovered. And this he is ready to verifie, whereupon he prays Judgment, and that the said W from whatsoever execution of the Judgment aforesaid against him of the damages aforesaid to be had or prosecuted, be barred, &c.

And the aforesaid W prays licence to imparle thereunto here, untill in the Utes of St. Michael, and he hath it, &c. The same day is given to the said I S here, &c. At which day here came as well the said I S by his Attorney aforesaid, as the aforesaid W P, by his Attorney aforesaid. And hereupon the same I prays, that the aforesaid W P to his Declaration aforesaid may answer, &c.

And the aforesaid W saith, that, he by any things before alledged, from having of his execution aforesaid against him the said I S for the damages aforesaid recovered, ought not to be delayed or repelled, because he saith, that there is not any such record of the original Writ and recovery of the damages aforesaid thereupon, as by the Writ and Declaration aforesaid is above supposed, and this he is ready to verifie, whereupon he prays judgment, whether he from having of his execution aforesaid may be delayed, &c.

And the said I saith, that the plea of the aforesaid W above, in barre of the aforesaid Audita querela of the same I pleaded, is not sufficient in the Law to maintain him the said W to have his execution against the same I of the damages aforesaid. And that he to that plea in manner and form aforesaid pleades, needeth not, nor by the Law of the Land is bound to answer. And for cause of his demurre in Law, according to the form of the Statute, he sheweth the cause following, that is to say, that the aforesaid plea, of there not being any such record of the original Writ and recovery aforesaid, is insufficient and nothing

The plea is double, and therefore by the Court it was adjudged vitious.

The def. in the Audita querela demurres to the plea of the def. and shews the cause.

thing material. And that the same plea doth not answer to the matter in the Declaration expessed, and traverfeth that which is not traverfable. And this he is ready to verifie, whereupon, as formerly, he prays judgment, and that the aforesaid W from having of his Execution aforesaid against him the said I of the damages aforesaid, by virtue of the recovery aforesaid be barred, &c.

The def. joins
in demurrer.

And the aforesaid W, in as much as he hath above alledged sufficient matter in Law, in his plea aforesaid, to maintain him the said W to have his Execution aforesaid, of the aforesaid sixty and six pounds, by virtue of the recovery aforesaid in form aforesaid had: Which said matter the aforesaid I S doth not deny, nor thereunto in any wise answer, but altogether refuseth to admit that a verment, as formerly, prays judgment, and his execution of the damages aforesaid to him to be adjudged, &c. And because the Justices of the Lord the King here will advise themselves of and upon the premises, &c. in the Utes of St. H. of hearing thereof their judgment, for that the same Justices here thereof not as yet, &c.

T²¹ Ia. rot. 1529. Audita Querela. Suggestion upon the Statute of Usury upon Statute Staple. H 22 Eliz. rot. 818 the like P 6 Ia. rot 1646 the like.

M³² and 33 Eliz. rot. 1306. Ponsuit in an Audita querela.

M²⁹ and 30 Eliz. rot. 1943. Ponsuit in A. Q. and entry of a Scire facias against the Banucaptors.

H⁴⁵ Eliz. rot. 1211 Audita querela upon Statute Berchant for a Clerk.

P² Eliz. between Gascoygn and Whalley.

Audita querela brought upon a permissive escape, where the plaintiff prosecutes a new execution. Recovery def. in execution thereupon.

Escape:

M 29. and 30. Eliz. rot. 109 Bonnet against Hibsey Audita querela B is in execution by

Habeas Corpus, by the Sheriff of B, and afterwards was in *Smithfield* in the County of *Midd.* out of custody, &c. and remained there until a new execution, &c. and thereupon was taken, and imprisoned, and delivered to his keeper, and was delivered afterwards in Court by the Sheriff of B, and such enlargement was no escape, and thereof a Spec. verdict. *Audita querela.*

and

T¹³ Jacobi rot. 777 Brownlow ff. the Lord the King sent to his Justices of the Common Bench his Writ close in these words, ff. Iames by the grace of God, &c. to our Justices of the Common Bench greeting, At the great complaint of T S late of B in the County of Sum. Peoman, to us grievously complaining, sheweth, that whereas one I W lately in our Court, to wit, in the term of S H Anno, &c. duod. before you at Westminster, by the consideration of the said Court, had recovered against the said T as well a certain debt of 64 li. as 36 s. 8 d. which to the said I in the same Court were adjudged for his damages which he had by occasion of detaining of that debt whereof he is convicted. And although the said T in execution for the debt and damages aforesaid, by virtue of a certain Writ of ours of Capias ad Satisfaciendum: therein directed to the Sheriff of Sum. by I H Knight, Sheriff of the said County at the suit of the said I P was taken and imprisoned, and afterwards, being so taken and imprisoned, was by the said Sheriff permitted voluntarily to go at large out of the said prison whither he would, and was there by delivered from the same Execution: As the said T is ready to instruct by wayes and means convenient. Notwithstanding the said I in execution of the debt & damages aforesaid against the said T by occasion of the said recovery so stoutly prosecuted, and him the said T upon that occasion unjustly indeavourd

and contrived to be taken and kept in prison to the no little damage of the said T, whereupon he hath humbly supplicated us, that we would provide a fit remedy for him: And because we will not be any whit injurious to the said T in this behalf, and willing therein to do what is just, we command you that, the complaint of the said T being heard in this behalf, and calling before you the parties aforesaid and others in this behalf whom you shall see fit to be called, And their reasons here thereof being heard, you cause to be made full and speedy justice as of right and according to the law and custom of our Realm of England ought to be done, witness our self at Westminster the twenty first day of June Ann. &c. 13. and over Scotland the 48. afterwards, to wit, the twenty second day of June in the same term came here in Court the said T S in his proper person. And hereupon I S of W in the County of S Cent. P L of S C D in the County of Midd. Taylor: P S of C, &c. And T B of C aforesaid Gardiner, have undertaken and every one of them hath under, tooke for the said T S in the summe of sixty pounds, and the same T. S. being present here in Court in his proper person undertook for himselfe, in the summe of 120 pounds to prosecute the said Writ of Audita querela, with effect, and if it happen that judgment be given against the said T S in this behalf, that then the said T S shall satisfie the said I V of his debt and damages aforesaid, in form aforesaid recovered, which said several sums of sixty pounds the said I S, P L, P I, and T B, acknowledge, and every one of them acknowledge to be made of their lands and tenements. And which said sum of one hundred and twenty pound the said I S acknowledgeth to be made of his lands and tenements, to be levied to the use and behoof of the said I V, If it happen the said T S to make default in any of the premises, and thereof to be rightly convinced; and prayeth a Writ of the said Lord the King to be directed to the Sheriffe of Som. to cause to come here the said I V to answer the premises, and further, to do and receive what the Court of the King here shall consider of in this behalfe, and that the said Sheriffe further to do any Execution, by pretence of the said Judgment upon any Writ of the said Lord the King, upon the said Judgment, to him directed, or to be directed, be altogether superseaded: And if hee shall have taken or seised any goods or chattels, lands or tenements of the said I S by occasion of the said recovery, or shall have taken the said T S upon that occasion and no other, that then without delay he deliver to the said T all his goods and chattels, lands and tenements, and permit him without delay to go at large, And it is granted to him returnable here in the morrow of all Soules, &c.

The def. puts in bail.
P 40. Eliz. rot. 815. M 36. & 37. Eliz. rot. 2941. bayl taken in Court upon a bayl, Audita querela H 5. lac. rot. 6792.
M 43. and 44. Eliz. rot. 3294 bayl in Audita querela brought upon a Release upon Statute Staples Ven. fac. awarded against the Plaintiff, upon the first recovery and a Superseadeas awarded against all executions.

Entry of a Sci. fac. to acknowledge or gain-say a deed upon an Audita querela brought upon a Release after judgment, Recovery. The Release shewen in Chancery.

T¹⁴ fac. rot. 3602. Brownlow, London, ff. It was commanded the Sheriffs, whereas at the great complaint of I C late of London, Preman, &c. the King was informed, that whereas R M in the Court of the said Lord the King here, to wit, at Westm. by the consideration of the same Court, had recovered against the said I, as well a certain debt of fourteen pound, as thirty shillings, which to the said R in the same Court of the said King here were adjudged for his damages, which he had by occasion of the detaining of the said debt: and although the said R, after the judgment aforesaid, given, to wit, the fourteenth day of Febr. An Dom. 1615. at R in the County of E, by a certain writing of Release, sealed with his Seal: And to the said Lord the King, in the Chancery of the said Lord the King at Westm. shewen, remitted, released and quite claimed for him, his Heirs, Executors and Assignes for ever, to the said I all and every Accounts, Suits, Judgments, Executions, Debts, Duties and Demands whatsoever, which he hath had, or by any means may have from the beginning of the world to the day of the date of the said Writing, as by the same Writing more fully appeareth, and which he is ready to instruct by wayes and means convenient. Neverthelesse the said R having no con-
deration

The def. is taken in execution at the prosecution of the plaintiff.

Audita querela

Bayl put in Court to prosecute with effect.

Nitchel returned upon a *Sci. fac.* and another *Sci. fac.* awarded, and a Nitchel thereupon.

Judgment that the def. in the *Audita querela* shall be barred from having execution, and the plaint. to be discharged, and the bayl discharged from their recognizance.

Audita querela brought by the feoffee upon a Recognizance acknowledged

by the feoffor before the feoffment, for performance of Covenants, the Conusor sues out execution before any Covenant broken, See M 4. I rot, 2703. between Gray and Marrow such an *Audita querela*.

deration of the premises, but contriving and intending unjustly to vex the said I, and unjustly to burthen him with the payment of the said debt and damages aforesaid, the same I, after the making of the said Writ of Release by virtue of a certain Writ of the said Lord the King, of Capias ad Satisfaciendum, out of the Court of the King here issuing, and directed to the Sheriff of the said Lord the King of the County of E at R aforesaid, caused to be taken and arrested, and the said I in the prison of the said Lord the King, under the custody of the said Sheriff of E in execution for the debt and damages aforesaid, caused to be kept and unjustly detained, to the extraordinary damage and grief of the said I, and against the form and effect of the aforesaid Writ, whereupon the said I humbly besought the said Lord the King now to provide for him a fit remedy in this behalf, the said Lord the King unwilling in any thing to injure the said I in this behalf, and willing to do therein what is just, that the Justices of the said Lord the King here, to wit, at Westm. hearing the complaint of the said I in this behalf, and calling before them the parties aforesaid, and the said Writ of Release being seen, and the reasons of the parties aforesaid thereof being heard, should cause to be done to the said I full and speedy Justice, as of right, and according to the law and custom of the Realm of the said Lord the King of England, ought to be done.

And the said I in the Court of the said Lord the King, here found to the Justices of the said Lord the King, here sufficient bayl, that the same I would prosecute his said Writ of *Audita querela* with effect. And if it should happen judgment to be given against the said I in this behalf, that then the said I should satisfy to the said R N of the debt and damages aforesaid, in form aforesaid recovered, that by honest, &c. he should make known to the said, that he should be here at this day, to wit, in the morrow of the holy Trinity, to acknowledge or gain-say the said Writ, and further to do and receive what the said Justices here shall seem considerable in this behalf, if, &c. And now here at this day came the said I by T T his Attorney, and offered himself the fourth day against the aforesaid R, of the plea aforesaid, and he being solemnly called came not; And the Sheriffs now returned, that the said R N hath nothing, &c. nor is found, &c. Therefore, as before, it is commanded to the S. of L, that by honest, &c. they make known to the said R N, that he be here from the day of the holy Trinity in three weeks, to acknowledge or gain-say the said Writ; and further to do and receive what by the said Justices here shall seem considerable, if, &c. At which day here cometh the said I by his Attorney aforesaid; and the said R, the fourth day of the plea being solemnly called, came not: And the Sheriffs, as before, now return that the said R N hath nothing, &c. nor is found, &c. Therefore it is considered, that the said R N be debarred from having any execution against him the said I, by virtue of the judgment aforesaid, for the debt and damages aforesaid, and that the said I be thereof discharged, &c. And also that W B of R in the County of E, Peoman, and A G of the Parish of S C D in the County of M, Cordwinder, Manucaptors for the same I, of their recognizance and bayl by them in Easter Term, Anno, &c. fourteen, acknowledged, as it appeareth in Easter Term, roll 702, be full discharged, &c.

T 2 Jac. rot. 717. Brownlow, ff. It was commanded the Sheriff, whereas at the great complaint of G S, Esquire, the Queen was informed, that whereas I K of A in the County aforesaid, Esquire, was seised of certain lands and tenements in N in the County of D, and also of certain lands and tenements in D S, H M, H and B, with the appurtenances in the County of S, in

his demesne as of fee : And being so thereof seised the sixth day of March, Anno, &c. 22. before us in our Chancery personally appearing, acknowledged himself to owe to G O, Citizen and Merchant of London, 500 li. of lawful money of England, to be paid to the said G O his certain Attorneys, Executors, or Assignes, at the Feast of Easter then next following, after the date of the said Recognizance, and unless he should do it, he granted for him and his Heirs, that the said 500 li. should be levied of his Lands and Chattels, to whose hands soever they should come, of which said Recognizance this was the Condition, That if the said I K, his Heirs, Executors, Administrators or Assignes, or any of them, shall well and truly perform, observe, fulfil and keep all and singular Covenants, Grants, Articles, Clauses and Agreements contained, specified and declared in one pair of Indentures, bearing date the fourth day of March, Anno abovesaid, made between the said I K of the one part, and the said G O of the other part, which on the part and behalf of the said I K, his Heirs, Executors, Administrators and Assignes, and all and every one of them are to be performed, observed, fulfilled and kept, and the same in all thing and things, according to the meaning, purport and true intention of the said Indentures, that then the said Recognizance should be clearly void and of none effect, otherwise it should remain in full strength and virtue, as by the said Recognizance in our said Court of Chancery at W in the County of M remaining, more fully appeareth. And afterward the said I being seised of the tenements aforesaid with the appurtenances, in form aforesaid, he infeoffed the said G O of the tenements aforesaid with the appurtenances, to have and to hold to him and his Heirs for ever. By virtue of which feoffment the said G was and yet is seised of the same tenements with the appurtenances in his demesne as of fee : And whereas also at the prosecution of the said G O, suggesting in our Court of Chancery, the said I K not to have paid to the said G O the aforesaid 500 li. whereby our Writ, bearing date the third day of Apr. Anno, &c. 30. issued out of our said Court of Chancery and directed to our Sheriff of the County of M, commanding the said Sheriff, that he should make known to the said I K, that he should be before us in our Court of Chancery aforesaid, from Easter day in one month then next following, wheresoever it should then be, to shew if he had or knew any thing to say, wherfore the said sum of money ought not to be levied of his Lands and Tenements, and delivered to the said G O, according to the force, form and effect of the said recovery, and that he should have the names of them by whom he should make it known unto him, and that Writ, at which said month of Easter, before us in our Court of Chancery at W aforesaid then being. T S and I C then Sheriffs of the County of M being, returned, that the said I K had nothing in his Baylywick, whereby he could make it known unto him, neither was found in the same, whereupon we by another Writ, the sixteenth day of May, Anno, &c. 30. abovesaid, issuing out of our said Court of Chancery, at the prosecution of the said G O, and directed to the Sheriff of M, the said Sheriff, as otherwise commanding, that he should make known to the said I K, that he should be before us in our Court of Chancery aforesaid, in the morrow of the holy Trinity then next following, wheresoever it should then be, to shew if he had or could say any thing, wherfore the said sum of money ought not to be levied of his Lands and Tenements, and delivered to the said G O, according to the force, form and effect of the said recovery, at which said morrow of the holy Trinity, before us in our said Court of Chancery at W aforesaid being, the Sheriff of M, as before, returned, that the said I K had nothing in his Baylywick, where by he could make known unto him, nor was found in the same, whereupon by our said Court it was then considered and adjudged, that the said G O should have judgment and execution against the said I K of the said 500 li. by default of the said I K. And the said G O did not prosecute execution upon the said judgment, within a year and a day after the said judgment was given, where

The Recognizance and Condition. M 12. and 12. Eliz. rot. 1890 Audita querela by the heir of the Conussee of the Recognizance being within age, for that he feared to be impleaded. Feoffment to the Plaintiff. Suggestion that the Recognizance is not satisfied.

Sci. fac. out of Chancery.

Nitchel returned.

Another Writ of Sci. fac. awarded.

Nitchel returned.

Judgment by default after return of two Nitchels.

Sci. fac. to receive execution.

upon, we by our other writ of Easter Term, Anno, &c. 32. out of our said Court of Chancery, here at the prosecution of the said G O issuing, reciting by the said writ, that whereas the sixth day of March, Anno 22. I K of A in the County of C, Esquire, personally appearing before us in our said Court of Chancery, acknowledged himself to owe to G O, Citizen and Mercer of L, 500 li. of lawful money of England, to be paid to the said G O at a certain day contained in the said Recognizance, as in the same is more fully expressed.

And whereas also in Trinity Term, Anno, &c. 30. the said G O in our said Chancery, had recovered against the said I K the said 500 li. which were adjudged to the said G O by the judgment of our said Court of Chancery by default of the said I K: As by the Record and proceedings therein, remaining before us in our said Court of Chancery, is more fully manifest. Execution of which said judgment remaineth undone, as we have received by the information of the said G O. And because we will not, but that those things, which in our said Court were rightly acted, should be duly executed, we have commanded the said Sheriff, that he make known to the said I K, that he should be before us in our said Court of Chancery in eight dayes of the holy Trinity, then next following, wheresoever it should then be, to shew if he had any thing, or knew any thing to say, wherefore the said G O ought not to have execution against him for the said 500 li. according to the form and effect of the said judgment and recovery, if to him it should seem expedient. At which said eight dayes of the holy Trinity, before us in our Chancery at W aforesaid then being, W R and B R then Sheriffs of the said County of M being, returned, that the said I K had nothing in his Walswick, whereby he could make it known unto him, nor was found in the same, whereupon the said I K before us in our Chancery aforesaid the fourth day of the plea, in the aforesaid eight dayes of the holy Trinity, solemnly called came not, but made default, whereupon by our said Court of Chancery it was considered and adjudged, that the said G O should have judgment and execution against the said I K for the said 500 li. by default of the said I.

Nitchel returned.

Judgment by default upon Nitchel returned. Declares upon the Indenture.

And whereas also by the said pair of Indentures in the Condition aforesaid mentioned, bearing date the said fourth day of March, Anno, &c. 22. above said, made between the said I K of the one part, and the said G O on the other part, whereof one part with the Seal of the said G signed was shewen before us in our said Court of Chancery, it is testified, that the said J K for and in consideration of the sum of 210 li. of lawful money of E, to him by the said G O in hand paid before sealing, acknowledged himself to be well and truly satisfied and paid, and thereof, and of every parcel thereof, had clearly acquitted and discharged the said G O, his Heirs, Executors and Administrators, and every of them by the said Indenture, had bargained, sold, delivered and granted, and by the said Indenture fully, clearly and absolutely bought, sold, gave and granted to the said G O, his Heirs and Assignes for ever, all those Messuages, Lands, Tenements, Feedings, Pastures, Closes, Woods, Underwoods, Commons, Rents, Reversions, Services and other Hereditaments whatsoever, then or late in the Tenure or Occupation of T G, his Assigne or Assignes, situate, lying and being in the parish of N in the said County of D, and likewise all other Lands, Tenements, Meadows, Closes, Pastures, Woods, Underwoods, Rents, Reversions, Services, and other his Hereditaments whatsoever, with the appurtenances, situate, lying and being in the parish aforesaid, or in any other place whatsoever in the said County of D, then or late in the Tenure or Occupation of the said T G, his Assigne or Assignes, &c. To have, hold and enjoy that whole moiety of the said Mannor, Messuage or Farm and all the said Land, Meadows, Feedings, Closes and Hereditaments, and all other the premises in the said Indenture mentioned, to be bargained and sold with the appurtenances and every part thereof to the said G O, his Heirs and Assignes to the only use and behoof of the said G O his Heirs and Assignes for ever.

And

And the said I K for himself, his Heirs, Executors and Administrators, and every of them, by the said Indenture covenanted and granted to and with the said G O his Heirs and Assignes in manner and form following, that is to say, that he the said I K his Heirs, Executors and Administrators, and every of them, &c. As by the said Indenture is more fully manifest.

And although the said I his Heirs, Executors and Administrators all and singular the Covenants, Grants, Articles, Clauses and Agreements in the said Indenture above specified on his behalf, before the issuing forth of the first Writ of Sci. fac. performed, fulfilled and kept well and faithfully, according to the form and effect of the said Indentures, as the said G O is ready to manifest by wayes and means convenient. Nevertheless the said G O endeavouring him the said G S, by reason of the said Recognizance and Judgment, unjustly to vex, so slowly prosecuted our several Writs to our Sheriffs of our several Counties of S and D thereupon out of our said Court of Chancery, by which said Writs we commanded our said Sheriffs of S and D, that all the Cattel of the said I in their Bayliwick, to the value of the said 500 li. by a reasonable appraisement, and also the moiety of the Lands of the said I in their Bayliwick likewise by extent to be made in the presence of the said I K in form aforesaid, to the said G O, or his certain Attorney, cause to be delivered, to hold to the said G O and his Assigns, as his free Tenement, until the said 500 li. shall be fully thereof levied.

Averment that the Covenants were performed.

The Conusor notwithstanding the performance of the Covenants sued out several extents

And what therein they shall do, to us in our said Court of Chancery in fifteen dayes of St. M then next following, wheresoever it should be under their Seals, they cause distinctly and plainly to appear, by reason whereof our said Sheriffs of S and D caused to be extended and appraised the moiety of all the aforesaid Lands and Tenements, which were of the said I at the time of the said Recognizance acknowledged in his Bayliwick, and delivered the same to the said G O to hold as his free Tenement, to him and his Assigns, until the said 500 li. should be thereof levied, to the great damage of the said G S. Whereupon the said G S hath humbly besought us to provide him a fit remedy in this behalf: We willing to have right done to the said G S in this behalf, Command you that the Complaint of the said G S being heard, and those called in that behalf to be called, they cause to be done speedy justice to the said G S, as of right and according to the law and custom of England ought to be done; Witness our self at Westminster the sixth day of Novemb. Anno 36.

The two Sheriffs execute the Writs to the damage of the feelee.

Audita querela

And hereupon the said G S came here in Court the sixth day of November that same term in his proper person, and prayeth a Writ of the said Lady the Queen of Ven. fac. here the said G O to answer to the premises: And further to do and receive what the said Justices shall see considerable, directed to the Sheriffs of London. And it is granted to him returnable here, from the day of St. Martin in fifteen dayes. And hereupon the said G S undertook for himself in the sum of a thousand pounds, to be here at the aforesaid fifteen dayes of St. Martin, and so from day to day at every day of the said plea, until the said plea shall be determined and judgment thereupon given. And that he would prosecute his said Writ with effect, which said sum of a thousand pounds the said G S acknowledged to be made of his Lands and Chattels, to the use and behoof of the said G O, to be levied, if it should happen the said G S to make default in any of the premises, &c.

The plaintiff gives bail.

And now here at this day came as well the aforesaid G S in his proper person, as the said G O by A M his Attorney, and hereupon saith, that whereas the said I K of A in the County of C, Esquire, was seised of certain Lands and Tenements in N as above, reciting, as before, until you come to the great damage, &c. and this he is ready to verifie, wherof he prayeth judgment, and that the said G O may be debarred of any further execution against the said G S of the aforesaid Lands and Tenements of the aforesaid G in form aforesaid.

Judgment in
Audita querela
by *Nihil dis-*
cit.

Judgment that
the Conussee
shall not have
further execu-
tion upon the
Recognizance
and that the
Lands shall be
discharged of
the extent, and
that the Ma-
nuscript be
discharged of
his Recogni-
zance.

Audita querela
brought by an
Infant to re-
verse a Sta-
tute-Merchant
acknowledged
by him in his
infancy.

M 32. and 33.
Eliz. rot. 427.
M 31. and 32.
Eliz. rot. 826.
T 31. Eliz. rot.
321. T 26.
Eliz. rot. 1800.
Audita querela
brought by an
Infant in his
non-age, upon
a Statute sta-
ple acknow-
ledged by him
and others
during non-
age, and the
Conussee
brings proofs
that he was
of full age.

said extended, by any other due course in Law, for the executing of the said 500 li. in form aforesaid acknowledged. And the said G O prayeth an im-
parlance here until in eight dayes of St. H, and hath it, &c. the same day is
given to the said G S here, &c. and hereupon the said G S prayeth, that the
said G O may answer to his said Declaration abovesaid, and the said G O
saith nothing thereof in barre, whereby the said G S remaineth against the
said G O thereof without defence. Wherefore it is considered, that the said
G O have no further execution of the said 500 pound, or of any part thereof
by virtue of the said Recognizance of the Lands and Tenements now of the
said G S in the Tenure of I, and late of I K above extended, and that the said G
O of having any execution, by virtue of the said Recognizance, be altogether
hindered and debarred. And that the said Tenements be altogether defend-
ed from execution: And also that the said G S of the Recognizance of a thou-
sand pound by him in M Term, Anno Reg &c. 36 and 37. rot. here in Court
acknowledged, to the use of the said G O to prosecute his said Writ of *Audita*
querela with effect be discharged, &c.

H 6 Jac. rot. 706. Brownlow, The Lord the King sent his Writ to the
Justices of the Common Bench in these words: James by the grace of
God, &c. To the Justices of the Common Bench greeting: Percy ap Henry
of L in the County of D, Gent. being within years, as it is said, hath besought
us, that whereas he the first day August, Anno &c. 6 before R S and I D, Gent.
then our Bayliffs of our Town of L in the County of S, and then Keepers of
the greater peice of the Seal of Statute-Merchant within the same Town,
and T T Esquire, our Clerk of the same Town, Keeper of the lesser peice of
the Seal of the said Statute, deputed and assigned to take recognizances of
Merchants debts at L aforesaid, by the procurement, instigation and provocati-
on of certain H P of H in the County of D, Gent. and H L of the parish of
L in the said County of D, Gent. was brought: And the same P then and there
before the said Bailiffs & Clerk, by his certain writing obligatory, in the na-
ture of a Statute-Merchant acknowledged and sealed, did acknowledge him-
self to owe to the said H and H five hundred pounds of lawful money of Engl.
which he ought to pay unto them at the Feast of St. M the Archangel then
next following after the date of the said Writting: And if he should fail wil-
led, and by the same Writting granted, that then the penalty in the Statute of
Acton Burnel and Westminster made for Merchants, should incurr upon him
his Heirs and Successors, as in the said Writting fully appeareth. We wil-
ling to provide a remedy for the said P, for the avoiding of the said Writting
obligatory, in the nature of a Statute-Merchant, as is premised, acknowledged,
in as much as it concerneth the said P, and to do what is right to the said P in
this behalf: We command you, that if lawfully it can be made manifest to
you, that the said P, at the time of the acknowledging of the said Writting obli-
gatory, to have been within age and yet to be, then, hearing the complaint of the
said P in the premises, and calling before you such as you shall see fit to be
called, you shall further do in that business what of right and according to the
law and custom of England ought to be done: Witnesse our self at Westmin-
ster the fifteen day of February, Anno, &c. six, and of Scotland forty
two.

Afterwards, to wit, the tenth day of February that same Term, came here
in Court the said P in his proper person. And the Court having seen and
devised the person of the said P, the same P saith, that he, the said first day of Au-
gust, before the said R S and J D, then Bayliffs of the said Lord the King of
the said Town of L in the said County of S, and Keepers of the greater peice
of the Seal-Merchant within the said Town, and the said T T, Esquire, then
Clerk of the said Town, Keeper of the lesser peice of the said Seal of the said
Statute, deputed and assigned for taking of the acknowledgements of debt,
Merchant

Inspection up-
on the person
by the Court.

Count in *Au-*
dit *querela*.

Perchant at L. aforesaid, by the procurement, instigation and provocation of certain H P was brought: And the same P the said first day of August, Anno 6. abovesaid, before the then Bayliffs and Clerks, by the said writing obligatory, in the nature of a Statute Perchant, acknowledged and sealed, did acknowledge himself to owe to the said H and H the aforesaid five hundred pounds, which he ought to pay unto them at the Feast of St. M then next following, according to the form of the Statute for recovering of such debts lately made and provided, as in the said Recognizance more fully appeareth. And the said P saith, that he, at the time of the acknowledgment of the said Recognizance was, and yet is within the age of one and twenty years, and not of full age of twenty one years, and this he is ready to testify, and thereof prayeth judgment, and that he may be adjudged by the Court here, to be within the age of twenty one years; and that the said Recognizance may be void, inballid and altogether taken for nothing; and that he may be discharged from the said Recognizance.

And it is to be known, that the said P the aforesaid tenth day of February, to prove his said allegation and complaint to be true, brought here in Court witnesses and proofs following, that is to say, one H ap E L of K in the County of D, which said H then and there upon his oath upon the holy Evangelist, was called, charged, sworn and examined to speak the truth in the premises, who upon his said oath depose and said as followeth in these words, that is to say, H ap E L of K in the County of D, Gent. aged fifty two years or thereabout, sworn and examined touching the age of P ap H P, Gent. Plaintiff in an Audita querela against H P and H L the tenth day of February, Anno Dom. 1608 saith and deposeth upon his oath, that is to say, that he hath known the said Plaintiff since his childhood, and that he knoweth the Plaintiff to be the same party that was this day in this Court inspected by the Justices of the same Court: And that he knoweth that the said Plaintiff is as yet under the age of twenty one years, and that he knoweth the Certificate by him this day produced in Court, testifying that the said Plaintiff was christened in the Parish Church of H in the County of D the 22 day of Aug. Anno Dom. 1688. is a true Certificate, and that it is subscribed with the hand of the now or late Curate there, H ap E K, which said Certificate here in Court under the hand of the said Curate of the said Church of H, signed in the deposition of the said H ap E K, followeth in these words, the twenty fourth day of August, Anno Dom. 1688. These are to certify unto you, that upon special suit and request made on the behalf of P ap H of P, after diligent search in the Register book and Records of the Parish of H, kept according to the Laws in that case made and provided, we found recorded, that P ap H, son of H, of H P, then of H, and now of P aforesaid late deceased, was christened in the Parish Church of H aforesaid, the 22 day of March, Anno Dom. 1688. In witness whereof we have subscribed our hands or signes mannal the day and year first above written, so testifies H D Clerk, Curate there, F ap W, R ap R Wardens.

And because it is expedient and necessary, that the said H P and H F for their interests in this behalf, be premonished before it be proceeded to the annulling and making void of the said Recognizance; It is commanded to the said Sheriff of S, that he cause to come here from Easter day in fifteen dayes the said H P and H W if any thing, &c. wherefore the said Recognizance, in form aforesaid, acknowledged, for the reason by the said P before alledged, ought not to be annulled, and the said P to be thereof discharged. And further to do and receive what the said Court of the said Lord the King here shall consider of in this behalf, the same day is given to the said P here, &c. And hereupon it is by the Court here to the said P, that he be then here, bringing along with him further proofs of his allegation and complaint aforesaid, if, &c. See the next following, and the new book of Entries, fol. 1

Proofs and examination of witnesses of his age.

Depositions
and testimo-
nies of the age
of the plain-
tiff.

P 36. Eliz. ror.
primo the exa-
mination of
age by custom.

Audita querela
where the Co-
nulsor at the
time of the
Acknowledg-
ment was
within age.

Statute Sta-
ple.

Examination
of Witnesses.

M 37 and 38. Eilz. rot. 3247. *buA* The Lady the Queen sent, &c. And now here at this day, to wit, the 25 day, &c. Anno, &c. abovesaid, came here in Court the said S S in his proper person, and saith, that he the said first day of March, Anno 37 above said, at L in the Parish, &c. before the said I P, Knight, Chief Justice of the said Lady the Queen, assigned to both pleas befoze the said Lady the Queen, and deputed to take Recognizances of debts, by the procurement, instigation and procuration of the said R P, was brought. And the same S S before the same I P, Knight, acknowledged himself, to owe to the said R P 40 li. which he ought to pay unto him at a certain time in the said Recognizance contained, according to the form of the Statute at Westminster made and provided, for the recovery of such debts, as in the same Recognizance is more fully contained.

And the same S S saith further, that he at the time of the aforesaid Recognizance upon the Statute Staple, was, and yet is, within the Age of one and twenty years, and not of full age of twenty one years; and thus he is ready to verifie, whereupon he prayeth judgment, and prayeth that by the Court here he may be adjudged to be within the age of twenty one years; and that the said Recognizance may be void, inballid and altogether taken for nothing; and that the said S S may by the Court here be discharged from the said Recognizance.

And it is to be known, that the said S S the said 25 day of October, Anno 37. abovesaid, to prove his allegation and complaint aforesaid, to be true, brought here in Court witnesses and proofs following, that is to say, T P, R E and I M, which said T P, R E and I M, the same 25 day of October, Anno 37, abovesaid, in the same Term befoze E A Knight and his associates, Justices of the said Lady the Queen of the Common Bench here, upon their oaths upon the sacred Evangelists, severally by himself charged, sworn and examined to speak the truth of and upon the premises, deposed and said, The tenor of which said depositions of the said T P, R E and I M, followeth in these words, Depositions taken befoze her Majesties Justices of the Common Pleas, &c. And because the Justices here will advise of and upon the aforesaid proof: And that it is expedient and necessary that the said T P, for his interest in this behalf, be premonished, befoze the Court here further proceed to make void and annihilate the said Recognizance. The Sheriff is commanded, that he shall to come here the aforesaid R P, to shew wherefoze the said Recognizance, in form aforesaid, taken and acknowledged, by the reason here alleged by the said S S in the same Court, ought not to be annulled, and the said S S for the same reason ought not to be discharged of the same. And further to do and receive what the said Court here shall consider in that behalf. The same day is given to the said S S here, &c. And hereupon it is further said to the said S S, that then he be here, and bring with him further proofs of his allegation and complaint aforesaid, if, &c.

And now here at this day, to wit, &c. came the aforesaid S in his proper person, bringing along with him the Church book of the Parish of L in the County of S, whereby it more fully appeareth to the Court here, the said S S was baptized at L aforesaid the 22 day of J. An. Dom. 1575 abovesaid. And the Sheriff now returneth, that the said R P hath nothing, &c. And hereupon the said S, as formerly saith, that he at the time of the acknowledgment of the Statute Staple made, was and yet is within the age of twenty one years, and thus he is ready to verifie, whereupon, as befoze, he prayeth judgment; and that he may be by the Court here adjudged to be within the age of twenty one years, and that the said Recognizance may be made void, inballid and taken altogether for nothing, whereupon because the Justices here, as well by the inspection of the said S S, as by the examination of the witnesses and proofs aforesaid, it sufficiently appeareth evident, the said S S at the time of acknowledgment aforesaid, to have been, and yet to be within the age of twenty one years.

There

Wherefore it is considered, that the said S being at present within the age of twenty one years : And so by the Court here at present adjudged to be within the age of twenty one years.

It was also considered, that the said Recognizance upon the Statute Staple aforesaid, by the said S to the said R P in form aforesaid acknowledged, be void, invalid and taken altogether for nothing, against him the said S. See M. 43 and 44. E. rot. 306. An Audita querela for reverting a Recognizance acknowledged to R by I in Chancery for non-age of R. See T 42 E. rot. 3179 T 27 H 8 rot. 507. An Aud. quer. acknowledged by an Infant reversed for his non-age, M against G.

Judgment that the Plaintiff is within age, and that the Recognizance shall be void.

HIO I rot. 2311. Brownlow. Otherwise as it appeareth in M Term, &c. HIO rot. 1219. It is thus contained, N. The Lord the King sent his writ, &c. to his Justices of the Common Bench greeting : Whereas at the great complaint of I H, Knight and Bar. we are informed, that whereas E Lord S the 29 day of May, An. 16. Eliz. before the Baylies of W, into a Recognizance of a thousand pounds to be paid unto the said R at a certain Term contained in the said Recognizance. And although all the Lands and Tenements which were of the said E S at the said Recognizance made, or at any time afterwards are of right to be burthened with the said debt. Notwithstanding one I B, Gent. Administrator of the Goods and Chattels which were of the said R, &c. by virtue of the said Recognizance, for that the said E Lord S kept not his term of payment, The Banno of O upon Severn with the appurtenances in the County of G : And also all Lands, &c. to the said Banno belonging : And also the said Banno of R, N, O and P with the appurtenances in the same County of G of the aforesaid Banno, Lands, Tenements and other the premises aforesaid with the appurtenances, the aforesaid E Lord S at the time of the said Recognizance made, and afterwards was seised in his demesne as of fee, which said Banno of O upon Severn with the appurtenances, and forty acres of Land with the appurtenances in O aforesaid, the same I H of the said E Lord S, after the said Recognizance made, diligently sought to him and his Heirs, one Bill being omitted, &c. which was of the said E Lord S at the time of the Recognizance aforesaid made, & then sheweth other Lands of the Conusors which were not extended, by process before us in our Common Bench at W made, caused to be extended and to be delivered to the said I B for his debt, to the great damage and hurt of the said I H, and puts in bail to prosecute the ven. fac. awarded against the Tenant, by the extent directed to the Sheriff of G, received fifteen M.

Audita querela brought by the Purchaser where the Conusor hath extended upon Statute-Merchant in lands he purchased and extended not the other lands in the hands of the Conusor.

And now here at this day came the aforesaid J by his said Attorney, and offered himself the fourth day against the said J B in the Plea aforesaid : And he solemnly called came not. And the Sheriff of G now returneth, that the said, I hath nothing, nor is found, &c. And hereupon the Sheriff is commanded that he should distrein the said I by all his Lands, &c. and that of the issues aforesaid, &c. so that he might have his body here in eight dayes of St. H, to answer the said J in and upon the premises : and further to do and receive what the said Court shall consider thereof in that behalf. At which day here came the said J by his said Attorney, and offered himself the fourth day against the said J B in the same Plea : And he being solemnly called came not. And the Sheriff of G, that is to say, J C, Esquire, then here returned, that the said I B is distreined by his Chattels to the value of twenty shillings, and is bailed by J D and R R. Wherefore they are in mercy, &c. Wherefore as before the Sheriff is commanded, that he distrein the said J B by all his lands, &c. returnable oct. P and a further distresse awarded.

Writ

Writ of Ayell.

Writ of Ayell.

H 7 Jac. rot. 66. Crompton amongst the Pleas of Land G. I T, Gen by R T his Attorney demandeth against W T six Acres of Pasture with the appurtenances in S, wherein I T the elder, Grand-father of the said I T now demandeth, whose Heir he is, was seised in his demesne as of fee, the day wherein he dyed, &c. And whereupon he saith, that the said I T, Grand-father, &c. was seised of the said six acres of Pasture, with the appurtenances, in his demesne, as of fee in the time of peace, in the time of the Lady E late Queen of E, that is to say, within fifty years now last past, taking thereof the profits to the value, &c. and died thereof seised in his demesne as of fee: And from the said I T the Grand-father descended the fee, &c. to one N T as Son and Heir, &c. And from the same N the fee descended, &c. to the same I T now demandant as to Son and Heir, &c. and whereof, &c. and thereof he bringeth suit, &c.

And the said W by A B his Attorney defendeth his right when, &c. and saith, that the said I T now demandant ought not to have his said Action against him, because he saith, that the said I T Grand-father of the said I T now demandant, whose Heir the said I T now demandant is, in his life time by his certain deed, which the said W, with the Seal of the said I T the Grand-father signed, here in Court bringeth, whose date is the tenth day of September, Anno Reg. &c. 18. in feoffed, one T T the father of the said W, of the said six acres with the appurtenances, by the name of that whole Close of Pasture known by the name of H, containing by estimation six acres, whether more or lesse, lying in S in the County aforesaid, late in the Tenure of A K deceased. And the reversion and reversions of all and singular the aforesaid premises: And all rents, reversions and yearly profits whatsoever, by any demises or grants whatsoever of the said premises, or of any part thereof, then before had, made, or reserved: To have and to hold the said six acres of Pasture, with the appurtenances, to the said T T and his Heirs for ever. And further the said I T the Grand-father, by the said deed, bound himself and his Heirs to warrant to the said T T and his Heirs the aforesaid six acres of Pasture, with the appurtenances, against the said I T the Grandfather and his Heirs for ever, as by the said deed fully appeareth. By virtue of which said feoffment the same T T was seised of the aforesaid six acres of Pasture, with the appurtenances, in his demesne as of fee: And afterwards the said T of S aforesaid, of the said six acres of Pasture, with the appurtenances, of such an estate therein died seised: After whose death the same six acres of Pasture, with the appurtenances, descended to the same W as Son and Heir of the said T, whereby the said W was and yet is thereof seised in his demesne as of fee: And this he is ready to verifie, whereof he prayeth judgment, if the said I T now demandant, his said Action against the said warranty of the said I T his Grand-father and Ancestor, whose Heir the said I T now demandant is, against him ought to have, &c.

And the said I T now demandant saith, that he, by any thing before alledged ought not to be barred from having his said Action, because he saith, that the said I T his Grand-father did not infeoff the said T T of the said six acres of Pasture, with the appurtenances, in manner and form as the said W hath above alledged. And this he prayeth may be inquired of by the Country, &c.

See H 14. Eliz. rot. 837 in a Writ of Ayel, where the tenant pleads non Stenure, and the other voucheth over, the replication is, that they are tenants and takers of profits, &c. the like H 22. H 8. rot. 158.

T 27. H 6.
rot. 332.

T 23 Eliz. rot.
1204.
M 33. H 6.
rot. 312.
H 11. Eliz.
rot. 653.
H 35 Eliz.
rot. 30.
H 6 Eliz. rot.
63.
P 11. H 6.
119.

H 11. H 6. rot. 330. Two Demandants in a Writ of Ayel, the judge's ment is, that the one shall recover one moiety and the other another moiety. Several recoveries in one Writ of Ayel.

H 13. Eliz. rot. 649. ff. S T and I T by N B their Attorney, demand Between Turk and Chandler. Against W C 8 acres of Pasture, with the appurtenances in H, whereof R T Grandfather of the said S and I, whose Heirs they are, was seised in his demesne as of fee, at the day whereon he dyed, &c. and thereupon saith, that the said R was seised of the Tenements aforesaid, with the appurtenances in fee and right, in the time of peace, in the time of H late King of England the eight after the Conquest, that is to say, within fifty years now last past, taking thereof the profits to the value, &c. And being so thereof seised died. And from the said R descended the fee, &c. to one I as Son and Heir, &c. And the same I for that the said Tenements, with the appurtenances, are of the nature and tenure of Gavel-kind: And all Lands and Tenements in the said County of K, which are of the same tenure and nature, from the time whereof the memory of man is not to the contrary, were dividable and divided amongst the Heirs males, descended the fee, &c. to the said S and J who are now Demandants, as to the Sons and Heirs of the said I T, the father and from whom, &c. and thereof they bring suit, &c.

And the said W by W C his Attorney cometh and defendeth his right when, &c. and saith: that the said S and I no Action, &c. because he saith, that a long time before the said R had any thing in the Tenements aforesaid with the appurtenances, one I I was seised of the same Tenements with the appurtenances in his demesne as of fee, and being so thereof seised, in seised one A C Widow of the same Tenements with the appurtenances, to hold to her and her Heirs for ever: By virtue of which feoffment the said A was seised of the Tenements aforesaid, with the appurtenances in her demesne as of fee, the estate of which said A of and in the Tenements aforesaid, with the appurtenances, the same W C now hath: And at the day of the bringing of the original Writ of the same S and I, had in the same, without that, that the said R C Grandfather, &c. was seised of the Tenements aforesaid with the appurtenances, in his demesne as of fee within fifty years last, before the day of the bringing of the original Writ aforesaid in manner and form as the said S and I have above alledged: And this, &c. H 14. Jac. rot. 88 in Pleas of Land.

And the said S and I say, that they ought not to be debarred, &c. because they say, that the said R Grandfather, &c. was seised of the Tenements aforesaid, with the appurtenances, within fifty years now last, before the bringing of the original Writ of the said S and I, to wit, the ninth day of October, Anno Reg. &c. elapsed, as the same S and I have above alledged: And this they pray may be inquired of by the Country: & the said W likewise: Therefore twelbe, &c.

See H 19. H 8. rot. 321. between G and J Count in a Writ of Ayell, the Tenant voucheth one as Son and Heir within age, the Countess counterpleads and issue is joyned thereupon.

Case.

I M complaineth of M H in the custody of the Marshall, &c. for that, to wit, that whereas the said I such a day and year had been seised, and is still seised in his demesne, as of free-hold for term of his life, and in one Close of Land called W, situate, lying and being in St. M T in the County aforesaid. And whereas the aforesaid I M the said day and year had been seised, and is still seised in his demesne as of fee, of and in one Close of Land called M, contiguously adjoining to the aforesaid Close of the said I called An Action upon the Case for not inclosing of fences which he ought to inclose.

led W, situate in St. M T aforesaid : And the said I and M of their aforesaid several Closes respectively, so as aforesaid being seised. The same I saith, that between the Closes aforesaid there is a certain hedge and fence separating and dividing those Closes from one another, which said hedge and fence the aforesaid M and all his Ancestors, and all those whose estate the same M then had, of and in the aforesaid Close of Land called M were, and from the time whereof the memory of men is not to the contrary, have used to make, repair and maintain as often as need should be, lest any Cattel out of the aforesaid Close of Land of the said I called W into the aforesaid Close of the aforesaid M called M, or out of the aforesaid Close of the aforesaid M called M into the aforesaid Close of the said I should escape, enter and do damage. Nevertheless the aforesaid M not being ignorant of the premises, endeavouring him the said I of the whole commodity and profit of the aforesaid Close of the said I called W, wholly to deprive afterwards, that is to say, the aforesaid first day of April in the year aforesaid and from thence until the first day of M, in the first year of the reign of the Lord C now King of E, did suffer the hedges and fences between the aforesaid Close of land of the aforesaid M called M, and the aforesaid Close of the said I called W, to be, remain and continue ruinous, broken, thrown down and in decay for want of reparation of the same : By reason whereof the Cattel of divers persons, to the same I unknown, divers dayes and times within the time aforesaid, out of the aforesaid Close of the aforesaid M called M into the aforesaid Close of the said I called W, by the breaches and decay of the hedge and fence aforesaid did break and enter : And the Grass, and also the Wheat, Rye and Barley of him the said I, to the value of one hundred shillings there late growing did feed up, tread down and consume : And likewise the Cattel of him the said I in the aforesaid Close of Land called W, feeding out of the same Close within the time aforesaid, into the aforesaid Close of the aforesaid M called M, by the said breaches and decay of the aforesaid hedge and fence of the aforesaid M, and from thence to places to the said I altogether unknown were eloyed and Strayed, whereby the same I is not only wholly defrauded of the commodity and profit of the aforesaid Close of the said I called W, but also did lose the Cattel of him the said I of the price of 10 li. out of the aforesaid Close of the same I called W, so as aforesaid straying, to the damage of him the said I of 30 li. &c.

A feme sole was engaged for meat and drink, and promised payment. And for default an Action is brought against her and her husband after inter-marriage.

ff. **A** B late of, &c. and I his Wife were attached to answer T B of a plea, wherefore, whereas she the said I, whiles she was sole, such a day and year at C had been indebted to the same T in forty shillings of lawful money of England, for drink, meat, lodging and hospitality for her self, her servants, and divers other persons, and for fodder for their horses and geldings, at the special instance, request and appointment of the same I, by him the said T to the aforesaid I, whiles she was sole, before that time sold, delivered and allowed : And being so therefore indebted, the aforesaid I afterwards, that is to say, such a day and year, whiles she was sole, at C aforesaid, in consideration thereof, did assume upon her self, and to the same T then and there faithfully promised, that she the said I would well and faithfully pay and content the aforesaid forty shillings to the same T when she had been thereunto required. Nevertheless the aforesaid I whiles she was sole, and the said A and I after the espousals between them celebrated, the said promise and assumption of the same I not regarding, but endeavouring him the said T in this behalf craftily and subtilly to deceive and defraud, have not paid, nor either of them hath paid the aforesaid forty shillings to the same T, according to the aforesaid promise and assumption of the same I ; although hereunto by the same T the aforesaid I, whiles she was sole, afterwards, that is to say, such a day and year at C aforesaid had been required. And although the aforesaid A and I after the espousals between them celebrated, that is to say, such a day and year at C aforesaid, hereunto

hereunto by the aforesaid T were likewise required. But the same to him hitherto to pay they have denied and still do deny: whereupon he saith, that he is the worse, and hath damage to the value of twenty marks, and thereof he bringeth suit, &c.

DEvon. s. I R late of C in the County aforesaid Merchant, was attached to answer A H Esquire, of a plea, wherefore, whereas one G P late of S in the County aforesaid Peoman, the 22 day of M in the 18 year of the reign of the Lord I late King of E, at C in the County aforesaid, by his certain writing obligatory had granted himself to be holden to the same A in forty pounds of lawful money of England, with condition thereunto annexed for the payment of twenty pounds of like lawful money of E to the same A upon the 22 day of M then next following, which said twenty pounds to the same A are still unpaid. And whereas also the aforesaid G P the fifth day of February, in the nineteenth year of the reign of the said late King I of E, &c. at R aforesaid, together with the aforesaid A H for the proper debt of the aforesaid G became bound to one R R of T in the County aforesaid Merchant, by a writing obligatory of one hundred pounds of lawful money of E, with condition thereunto annexed for the payment of fifty five pounds of like lawful money of E to the said R R upon the fifth day of February then next following: which said fifty five pounds long after the aforesaid fifth day of February to the same R R were unpaid. And whereas also the aforesaid I R had been indebted to the aforesaid G P in divers sums of money for a certain parcel of Land by the aforesaid G P to the said I R bargained and sold: The aforesaid I being so therefore indebted the first day of February in the year of our Lord 1624. at L, in consideration, that the same A H at the special instance and request of the said I R would compound and agree with the aforesaid R R for the use, to the same R R upon the aforesaid writing obligatory of an hundred pounds, then being in arrear, and by the same G P to the said R R to be payed. For which said use so being in arrear, together with damages, by occasion of the detaining thereof, the same R R did then and there detain the aforesaid writing obligatory of one hundred pounds in his hands uncanceled: And also did get the same writing obligatory into the proper hands and possession of the same A H to be cancelled: That then the aforesaid I R would pay and content all such sums of money as the same A, upon such his composition, for the use aforesaid, so being in arrear for the damages aforesaid, by occasion of the detaining thereof to the said R R should reasonably disburse and lay out, and also would pay and content the aforesaid twenty pounds by the said G P to the same A H at the feast of St. M the Archangel, in the year of our Lord, 1627. And the same A in fact saith, that he giving credit to the said promise and assumption of the aforesaid I R afterwards, that is to say, the first day of March, in the year of our Lord 1624. aforesaid, at K aforesaid, did compound and agree with the said R R for the use to the same R upon the aforesaid writing obligatory of one hundred pounds, so being in arrears, together with his damages, by occasion of the detaining thereof for fifteen pounds of lawful money of E, and did then and there pay and reasonably lay out and disburse the same fifteen pounds to the aforesaid R R for the said use and damages aforesaid: And did take and regain the same writing obligatory of one hundred pounds into his own hands to be cancelled. Nevertheless the aforesaid I his promise and assumption aforesaid not regarding, but endeavouring him the said A H in this behalf craftily and subtilly to deceive and defraud, neither the aforesaid fifteen pound by the same A H upon his composition aforesaid, to the said R R in form aforesaid payed and disbursed, nor the aforesaid twenty pounds by the aforesaid G P to the same H upon the aforesaid writing obligatory of forty pounds as aforesaid due: Although by the same A at K aforesaid he was often thereunto required, according to his promise and assumption aforesaid hath not paid, nor in any wise for the same contented;

Case upon a composition & agreement made by the Plaintiff for the Defend. with one R R for use money to the said R R, upon an obligation of 100 li, being in arrear together with his damages by occasion of the detaining thereof, for 15 li. to the said R R for the use and damages aforesaid payed and laid out by the Plaintiff for the Defend. &c. founded upon three inducements,

contented, but the same to him hitherto to pay or content he hath utterly refused, and still doth refuse, to the damage of him the said A H of sixty pounds &c.

Case for a Copy-holder for inclosing of land, whereby the Plaintiff could not enjoy his Common.

W As seised and still is thereof seised in his demesne as of fee, at the will of the Lord, according to the custom of the Mannor aforesaid. Nevertheless the aforesaid R not being ignorant of the premises, but endeavouring him the said H in this behalf many wayes to grieve, and to hinder, and to deprive him of the profit and commodity of the Common of Pasture and feeding aforesaid, with his great commonable Cattell upon his aforesaid Messuage, and two acres of Land levant and couchant, to be had and taken in the aforesaid four several Closes of Land above specified the sixth day of October the thirteenth year abovesaid, the same four several Closes of Land, with certain hedges and ditches did severally inclose. And the same four several Closes of Land so inclosed, alwayes from thence hitherto hath kept and keepeth: So that the same H the great Cattell upon the aforesaid Messuage and two acres of Land levant and couchant into the aforesaid four Closes of Land, or any of them, for to have the use of the Common of pasture and feeding aforesaid, there could not, nor cannot put, whereby the said H all the profit and commodity of his Common of pasture aforesaid, for a long time, that is to say, from the aforesaid such a day and year abovesaid, until such a day from thence next following, did wholly lose, to the damage of him the said H of sixty pounds, &c.

Case for putting in of Sheep in lands commonable, where he ought not to common with Sheep.

E M late of F in the County aforesaid Peoman, W C late of F in the County aforesaid Peoman, and R C late of F in the County aforesaid Peoman, were attached to answer W I of a Plea, wherefore, whereas the same W I the first day of April, in the 13th year of the reign of the Lord the King then now is, and long before, and alwayes afterwards hitherto had been seised of one Messuage and seventeen acres of Land, with the appurtenances in F aforesaid in his demesne as of fee. And whereas also the same W I and all those whose estate the same W I now hath in the same Tenements, with the appurtenances, from the time whereof the memory of men is not to the contrary, had, and have been accustomed to have Common of pasture in and upon a certain peice of Pasture containing forty acres called S, with the appurtenances in F aforesaid, for all his great Cattell, upon the Tenements aforesaid, with the appurtenances levant and couchant every year, all the time of the year, as the Tenements aforesaid with the appurtenances belonging. And the same W I of the Tenements aforesaid, with the appurtenances, in his demesne as of fee in form aforesaid being seised, the same W I the aforesaid first day of April in the thirteenth year abovesaid, did put his great Cattell, that is to say, three Horses, eight Cows, and eight Heffozs in and upon his Tenements aforesaid levant and couchant, into the aforesaid forty acres of Pasture called S aforesaid, to feed up the grasse there then growing, in using his Common aforesaid. And the Cattell aforesaid, from the aforesaid first day of April, in the thirteenth year abovesaid, until the last day of August in the same thirteenth year were and upon the aforesaid forty acres of Pasture called S, feeding up the grasse there then growing, in using his Common aforesaid. Nevertheless the aforesaid E W, C and R not being ignorant of the premises, but endeavouring him the said W I, of his Common aforesaid, for his Cattell aforesaid, in and upon the aforesaid forty acres of Pasture called S, in form aforesaid to be had and taken, unjustly, to hinder and defraud the aforesaid first day of April, in the thirteenth year abovesaid, with the aforesaid hundred Sheep did feed up, tread down and consume, where in truth the said E W, C and R then had no right Common for the Sheep aforesaid in and upon the aforesaid forty acres of Pasture called S: Whereby the said W I by the same time could not have an

enjoy

enjoy the profit and commodity of his said Common of Pasture in and upon the aforesaid forty acres of Pasture called S, with his Cattel aforesaid in and upon the same forty acres of Pasture called S, by the time aforesaid levant and couchant, in such ample and beneficial manner and form as he ought, and was accustomed. And the aforesaid Cattel of him the said I W in and upon his said Tenements, by the same time levant and couchant, for want of sufficient Pasture in and upon the aforesaid forty acres of Pasture called S, by the time aforesaid to be had by the occasion aforesaid were very greatly the worse and impaired, to the damage of him the said W I of twenty pounds, &c. and whereupon the same W I by, &c.

¶ **S**C late of H in the County aforesaid, Gent. was attached to answer T **S**N of a Plea, wherefore, whereas the same T was seised of one Messuage and eight acres of Land, with the appurtenances in H aforesaid, in his demesne as of fee. And the same T, and all those, whose estate the same T now hath in the aforesaid Tenements, with the appurtenances, from the time whereof the memory of men is not to the contrary, have had, and have been accustomed to have for themselves their Farmers and Tenants of the same Tenements, with the appurtenances, Common of pasture in and upon a certain piece of pasture called C B, containing by estimation two hundred acres of Pasture in H aforesaid, abutting upon the Common of Pasture of C towards the North for his Horses and Cows in and upon the aforesaid Messuage and eight acres of Land, with the appurtenances, levant and couchant every year, and all the time of the year, at their pleasure, as to the aforesaid Messuage and eight acres of Land, with the appurtenances belonging and appertaining. And the aforesaid T of the said Messuage and eight acres of Land, with the appurtenances in form aforesaid being seised.

And the aforesaid S not being ignorant of the premises, but endeavouring and intending him the said T in this behalf evilly to grieve. And him the said W of his Common of Pasture of and in the aforesaid two hundred acres of Pasture, with his said Cattel in and upon the aforesaid Messuage and eight acres of Land with the appurtenances levant and couchant to be had, to hinder, impugn and deprive. And also the feeding which the aforesaid Cattel of him the said T in the aforesaid two hundred acres of Pasture by pretext of the premises aforesaid, might take and have unjustly, to destroy and consume the twentieth day of S in the twenty one year of the reign of the Lord J late King of E, &c. and divers other days and times betwixt the same twentieth day of S and the first day of M in the twenty two year of the reign of the said late King, the soil of the aforesaid two hundred acres of Pasture with Ploughs did turn up. : And one hundred acres thereof with Hisselin, Rye, Barley, Pease, Fitches and Oats did sow, whereby the same T, the profit of his said Common of pasture in and upon the aforesaid two hundred acres of Pasture, which he, and all those, whose estate the same T now hath, and from the time whereof the memory of men is not to the contrary have had, and ought to have by all the time aforesaid, hath utterly lost, to the damage of him the said T of forty pounds, &c. and whereupon, &c.

¶ **I**R Executor of the Testament of R R complaineth of H W in the custody of the Marshal, &c. for that, to wit, that whereas the aforesaid R R in his life time, that is to say, such a day and year had been possessed of and in one Messuage, with all the Houses, Gardens and Orchards to the same Messuage belonging and appertaining: And of and in one Close called or known by the name of S, one other Close called B, one other Close called C, &c. and of one parcel of arable Land lying and being in a certain field called VV, all which said premises are situate lying & being in B in the aforesaid County of D, for the term of divers years yet to come of the demise of one I H, T H, and M his Wife, and I H, and A his Wife, or any of them. And

Case brought by Tenant in fee-simple, against one for plowing of Lands in which the Plaintiff ought to have Common of pasture all the time of the year.

Case by an Executor upon a mutual promise of the Testator, in consideration that the testator, had promised to convey his term of years which he had in lands, the def. promised to pay to the test. 500 li. which was not payed to the testator, in his life time therefore the action did accrew.

whereas the aforesaid R R the same day and year at B aforesaid in the aforesaid County of D, had been likewise possessed of one bedsted, one table, &c. then being in the Parlour parcel of the Messuage aforesaid. And also of and in divers other settlings and portals in the Messuage aforesaid then being. And the same R being so of all and singular the premises aforesaid, with the appurtenances possessed.

Communication.

A certain communication was then and there had and moved between the aforesaid R R in his life time, and the aforesaid H W of, for and concerning the buying of the estate of the same R in the Messuage aforesaid, and other the premises, with the appurtenances above demised by him the said H W of the said R to be made.

The same H W thereupon, that is to say, such a day and year at B aforesaid in the aforesaid County of D, in consideration that the aforesaid R R in his life time, then and there had assumed upon himself, and to the same H faithfully promised to convey all his estate, right and interest of and in the said Messuage, and other the premises to the said R R in his life time in form aforesaid, demised unto the aforesaid H W, and to suffer the same H to have the possession of the same Closes called S P G, &c. at the feast of the Annunciation of the blessed M then next following, and of the aforesaid Closes called B and the aforesaid parcel of arable Land at the feast, &c. then next following, and of the aforesaid Houses, Orchards and Gardens at the feast of St. M then come twelve month, that is to say, at the feast of St. M the Archangel which then should be in the year of our Lord 1616. And to leave at the departure of him the said R from the aforesaid Messuage, the said bedsted and other the goods and chattels, &c. in the said Messuage so as aforesaid being, and the glasse windows to the aforesaid Houses belonging, and the said other settlings and portals, and in the mean time to repair the said Houses, did assume upon himself, and to the said R in his life time then and there faithfully promised that he the said H would well and faithfully pay and content to the said R five hundred pounds of lawful money of E, in manner and form following, that is to say, two hundred and fifty pounds at the feast of St. M the Archangel then next following, and two hundred and fifty pounds at the feast of the Annunciation, &c. thence next following.

An Averment of the Plaintiff, that the Testator in his life time, and he after his death, were always ready to convey, &c.

And although the aforesaid R in his life time, and the aforesaid I after the death of the said R, from the time of the said promise and assumption in form aforesaid made hitherto, were always respectively ready to convey all his estate, right and interest of and in the said Messuage, and other the premises aforesaid, to the said R in form aforesaid demised unto the said H, and to suffer the same H to have the possession of the aforesaid Closes, called the S P G &c. at the aforesaid feast of the Annunciation next following the aforesaid promise and assumption of the said R above made, and of the aforesaid Closes called B W, and the other Closes, &c. at the aforesaid feast of St. M the Archangel thence next following, and of the aforesaid Houses, Orchards and Gardens at the aforesaid feast of St. M the Archangel then come twelve month that is to say, at the aforesaid feast of St. M the Archangel, which then should be in the year of our Lord 1616. and to leave the aforesaid bedsted and other the goods and chattels in the Messuage aforesaid, so as aforesaid being, and the aforesaid glasse windows, and the said other settlings and portals, and in the mean time to repair the said Houses, according to the aforesaid promise and assumption of the same R thereof.

And although the aforesaid R afterwards at B aforesaid in the said County of D, did make his Testament and last Will; and by the same did constitute the aforesaid I R Executor of the same Testament, and afterwards thereto died: Nevertheless the aforesaid I his said promise and assumption in no way regarding, but endeavouring and fraudulently intending him the said R in his life time, and the aforesaid I R after the death of the same R of the aforesaid

five hundred pounds craftily and subtilly to deceive and defraud the same five hundred pounds. Although oftentimes required, &c. to the same R R in his life time, or to the aforesaid I R, after the death of the same R R, hath not as yet payed, nor the same R R in his life time, nor the said I R, after the death of the same R R, for the same hitherto he hath in any wise contented, whereby divers debts, which were of the said R R at the time of his death, are still unpaid: And the same I cannot perform the faithful execution of the aforesaid last Will and Testament of the said R R to the damage of the Plaintiff of six hundred pounds, &c.

The Defendant pleaded he did not assume.

T 2 of King Charles.

T 2 of King C. Brownlow. ff. T C late of, &c. was attached to answer T L of a Plea, wherefore, whereas one M C such a day, &c. being sole and unmarried, by unlawful copulation had been great with child. And whereas also a cert. in suit in the Court Christian at W in the County of S, against him the said T C, and one I C, father of the same T C, in a certain Cause of incontinencie, touching the carnal knowledge of the body of the same M C by them the said T and I, or one of them supposed to be had, was begun and commenced.

And also whereas the aforesaid T C afterwards, that is to say, the same day and year at T, in consideration that the aforesaid T L at the special instance and request of him the said T C, would travel for the aforesaid T C and I C to the aforesaid Court Christian at W aforesaid: And would procure them the said T C and I C, concerning the aforesaid cause of incontinencie, in the said Court Christian to be discharged. And also in consideration that the aforesaid T L, at the like instance and request of the same T C, would bring the said M C, whilst she had been great with child, to a certain house of a friend of him the said T L, there to be brought abed, and to be delivered of child there, and would provide and give convenient maintenance for and to the said M & her child, did assume upon himself, & to the said T L then and there faithfully promised, that he the said T C would well and faithfully pay and content to the said T L all the charges, costs and expences, which the said T L should expend and lay out, as well in and about the procuring of the discharge aforesaid, as in and about the aforesaid maintenance and sustentation of her the said M and her child, when thereunto after those expences and layings out he should be required.

And the same T L in fact saith, that he afterwards, that is to say, the day and year abovesaid, at the aforesaid instance of him the said T C, did travel for the said T C and I C to the aforesaid Court Christian at W aforesaid: And did procure them the said T C and I C, concerning the aforesaid cause of incontinencie, in the said Court Christian to be discharged. And afterwards, that is to say, the day and year abovesaid, did bring the said M, whilst she was great with child, to the house of a friend of the same T L, namely, A B, situate at B in the County aforesaid, there to be brought abed and be delivered of child: And did provide and give convenient maintenance and sustentation to the said M and her child, by the space of fourteen weeks from thence next ensuing. And further the said T L in fact saith, that he the said T, at the time of the obtaining of the discharge aforesaid at W aforesaid, in and about the procuring and obtaining of that discharge, did expend and lay out six pounds and ten shillings over and above the moneys which he did deserve for his labour in that behalf applied and performed. And also afterwards, that is to say, such a day and year at B aforesaid, did expend and lay out in and about the maintenance and sustentation of the same M and her child, which the same M had then brought forth, eighteen pounds of lawful money of E, besides the money which he deserved for his labour in that behalf applied.

Case upon a promise of the Defend. that he would pay to the Plaintiff all the charges costs and expences which the Plaintiff should expend and disburse, as well in and about the procuring of a discharge of a suit begun in the Court Christian of W, &c. against the Defend. and his father in a cause of incontinencie touching the carnal knowledge of the body of one M by them or one of them, &c. as in and about the maintenance of the said M and her bastard child.

Reber,

Nevertheless the aforesaid T his said promise and assumption in no way regarding, but endeavouring and intending him the said T, L in this behalf craftily and subtilly to deceive and defraud hath not as yet paid nor, to the said T, L, therefore in any wise contented any sum of moneys, either for or in respect of the procuring of the discharge aforesaid, or in or about the maintenance and sustentation of her the said M and her said Child, by him the said T, L aforesaid expended and layed out. Although hereunto the aforesaid T, C, lay a special request, to the damage of the Plaintiff of forty pounds, &c. whereupon the same Plaintiff by F G his Attorney complaineth, whereas, &c.

A Declaration
by the Sheriff
upon a Resc.
made on his
Bailliffs.
T. 20 of King
James roll.
709.

II. **T**H late of, &c. was attached to answer I B Esquire, late Sheriff of the County aforesaid, of a Plea, wherefore, whereas elsewhere, (that is to say, at Westminster in the County of M, a certain Writ of the Lord the King that now is, to the then Sheriff of the aforesaid County of S was directed: which said Writ the said Lord the King did command the same Sheriff, he should not omit for any Liberty of the Bailiff of T in the County of S, that he should take A B, late of T in the aforesaid County of S, Shroveton, if he should be found in his bailiwick: And him safely keep, so that he should have his body before the Justices of the said Lord the King here, that is to say, at Westminster aforesaid, from Easter day in one month then next following, to satisfy I W, as well of a certain debt of ten pounds, which, &c. as of five shillings, which to the same I in the same Court of the said Lord the King were adjudged for his damages, which he had by occasion of the detaining in that debt, whereof he was then convicted. And whereupon it had been considered in the same Court of the said Lord the King here, that is to say, at Westminster aforesaid, that the said I should have execution against the aforesaid of the debt and damages aforesaid, by the default of the same A. And whereupon the same Sheriff did certify to the Justices of the said Lord the King here, to wit, at Westminster aforesaid such a day and year, that for the execution of the same Writ to him directed to be done, he did command the Bailiff of the Liberty of T in the aforesaid County of S, who had the full return of the Writs, Precepts, and the Execution of the same within the Liberty aforesaid to whom the execution of that Writ did appertain to be done, for that the execution of the same Writ, out of the said Liberty, by the aforesaid Sheriff could not be done, who to the same Sheriff gave no answer. And that the said Sheriff should have then here, to wit, at Westminster aforesaid that Writ. And whereas also the said I the said such a day and year, which day the said Writ did issue forth of the Court of the said Lord the King here, until the aforesaid return of the same Writ, and afterwards was Sheriff of the said County of S, and to exercise the same office before that time had been elected, made and constituted. Whereby and by virtue of the Writ aforesaid the same I then Sheriff, &c. after the issuing forth of the same Writ, before the return thereof did make his certain Warrant to one I B, A B, Bailiffs of him the said H R Sheriff &c. to take and arrest the said T, according to the tenor and effect of the same Writ, which said I B, A B, &c. by virtue of the Warrant aforesaid, afterwards and before the return of the Writ, that is to say, such a day and year at T in the aforesaid County of S, taken and arrested the body of the said T, and him in the custody of the said H then Sheriff, &c. then and there had and detained. Nevertheless the aforesaid T Hall and singular the premises sufficiently knowing, but endeavouring and intending him the said H then Sheriff, &c. unjustly to grieve and to cause him to be charged with the payment of the debt and damages aforesaid in the said Writ specified, and the enlargement of the aforesaid T, together with some, A C, I N, &c. afterwards, that is to say, such a day and year with force and arms, that is to say, with swords, &c. up

the aforesaid A B and I B Bailiffs of him the said R H, then Sheriff, &c. at T aforesaid, did make an assault, and the same Bailiffs did then and there beat, wound and cruelly entreat. And the same A, together with, &c. did rescue the aforesaid T H from the custody of him the said R H, then Sheriff, &c. and suffered him to go at large whither he would, against the will of the same R H then Sheriff, &c. and afterwards the aforesaid T was not to be found in his Baylwick, whereby, and by reason of the escape of the aforesaid T, the same R H then Sheriff, &c. by the Laws of the Land of this Realm of Engl. was chargeable, and charged with the payment of the debt and damages aforesaid, in the said writ above specified. And the same R afterwards, at the prosecution of the said I C was constrained to pay and satisfy to the said I C, as well the aforesaid six pounds for the debt aforesaid, as the aforesaid five pounds and ten shillings for the damages aforesaid, in the said writ specified, to the damage of him the said R of twenty pounds, &c.

I H late of B in the County of D Merchant, was attached to answer H B for a Plea, wherefore, whereas one I M had been indebted to the aforesaid H in fifteen pounds of lawful money of England, to be paid to the same H when he had been thereunto required. And whereas the aforesaid I H had been likewise indebted to the aforesaid I M in the like sum of fifteen pounds of lawful money of England, to be paid to the same I M likewise when he had been thereunto required. And for the satisfaction of the same H of the aforesaid fifteen pounds from the said I M, the same I M had appointed the said H to receive of the said I H, to the proper use of him the said H, the aforesaid fifteen pounds.

The aforesaid I H the 21. day of May, in the year of our Lord 1601. at the City of Exeter in the County of the same City, in consideration that the same H then and there at the special instance and request of him the said I H, would give to the same I H day to pay the aforesaid fifteen pounds to the same H: his Assignes upon the twentieth day of June then next following, did assume upon himself, and to the said H then and there faithfully promised, that he the said I H would pay and content the aforesaid fifteen pounds of lawful money of England to the said H upon the said twentieth day of Ju. And although the aforesaid H at the aforesaid instance and request of him the said I H did give to the same I H day to pay the aforesaid fifteen pounds upon the aforesaid twentieth day of June: Nevertheless the aforesaid I H his promise and assumption in no wise regarding, but endeavouring and fraudulently intending the aforesaid H of the aforesaid fifteen pounds craftily and subtilly to deceive and defraud, hath not paid nor contented the aforesaid fifteen pounds to the same H according to his promise and assumption aforesaid, to the damage of him the said H of forty pounds, &c.

H S, otherwise A, late of B in the County aforesaid Peoman, and I his wife, were attached to answer P P of a Plea, wherefore, whereas one I P now deceased, late the Husband of the said I, in his life time by his certain Will obligatory with his Seal sealed, bearing date the sixth day of August, in the eleventh year of the reign of the Lord James late King of England, at B had acknowledged himself to owe to the same P forty eight pounds and eight shillings of lawful money of England, to be paid to the same P at a certain day in the same Will contained, which said forty eight pounds and eight shillings the said I at the day in the aforesaid Will contained had not paid. And whereas also the aforesaid I in his life time afterwards, that is to say, the sixth day of August, in the thirteenth year of the reign of the said late King of Engl. at B aforesaid, had been indebted to the same P in one hundred shillings of lawful money of England, of the same P by the aforesaid I before that time borrowed and received. And being so therefore indebted, the same I in his life time

Case where
I M was in-
debted to the
Plaintiff in
15 li. and the
Defendant
was indebted
to I M in
15 li. I M
assigns the
Def. 15 li. to
the Plaintiff.
The Def. in
consideration
that the Plai-
would give
day to pay in
promises pay-
ment.

Case against
an Admini-
strator.

afterwards, that is to say, the same fifth day of August, in the thirteenth year above said at B aforesaid, in consideration thereof had assumed upon himself, and to the same P then and there faithfully promised, that he the aforesaid I would well and faithfully pay and content the same hundred shillings to the same P, which said hundred shillings he had not paid: Although the aforesaid I in his life time to pay the same to the said P by the same P had been oftentimes afterwards required.

Drawn by the
advice of Ser-
jeant Headen.

And afterwards the aforesaid I at B aforesaid dyed intestate. And the aforesaid federal sums of money in the whole amounting to fifty three pounds and eight shillings to the said P not being paid. After the death of which said I, the administration of all the goods and chattels which were of the said I at the time of his death to the said I, whilst she was sole, was committed. And whereas also the said I after the death of the aforesaid I, whilst she was sole, had been possessed of the interest of a term of divers years then and yet to come, of and in one Hedinge, one Garden, twenty acres of Land, four acres of Meadow and ten acres of Pasture, with the appurtenances, called E in B in the County aforesaid, in reversion after the death, Surrender, Forfeiture, or other lawful determination of the estate of one I P Widow, mother of the aforesaid I P deceased, then Tenant in possession of the same Tenements with the appurtenances by copy of Court rolls of the Hanning aforesaid, at the will of the Lord of the Hanning aforesaid, according to the custom of the same Hanning, for the term of her life, if the same I the mother should so long live sole and unmarried. And the said I now one of the Defendants, whilst she was sole, of the said interest of the term aforesaid, in form aforesaid being possessed the same P had intended to sue the same I for the aforesaid fifty three pounds and eight shillings, so that, that the same I had not paid the same fifty three pounds and eight shillings to the same P, after the death of the aforesaid I her said husband deceased.

The aforesaid I, whilst she was sole, afterwards, that is to say, the first day of January, in the fourteenth year of the reign of the said late King of E, &c. at B aforesaid, in consideration that the same P at the special instance and request of her the said I now one of the Defendants, would forbear to sue the aforesaid I for the aforesaid fifty three pounds and eight shillings, untill the end of four years next after that the aforesaid interest of the term aforesaid, of and in the tenements aforesaid, with the appurtenances, should come into the possession of the same I, did assume upon her self, and to the same P then and there faithfully promised, that she the said I would well and faithfully pay and content sixty pounds of lawful money of Eng. to the same P, when thereunto after the end of the aforesaid four years next and immediately after that the said interest of the aforesaid term of her the said I of and in the Tenements aforesaid, with the appurtenances, should come into possession, she had been required. And although the said I A, Mother of the said I P, afterwards, that is to say, the twenty one day of June, in the twenty two year of the reign of the Lord I late King of Eng. &c. at B aforesaid dyed. And that immediately after the death of the same I the Mother, the aforesaid interest of the said I, now one of the Defendants of and in the Tenements aforesaid, with the appurtenances, came into the possession of the same I.

And the said I afterwards, that is to say, the first day of July, in the fourth year of the reign of the Lord the King that now is, at B aforesaid, did take to her Husband the said H A otherwise S. And although also four years and more after the aforesaid time that the Tenements aforesaid, with the appurtenances, did come into the possession of the said I now one of the Defendants aforesaid, and before the obtaining of the original Writ of the said P, that is to say, the first day of August, in the eight year of the reign of the Lord the King that now is, have been incurred and expired.

And although also the same P upon hope of the faithful performance of the aforesaid

the said promise and assumption of the said I, now one of the said Defend. is as aforesaid made, hath hitherto forborn to implead and sue the same H and I, or either of them for the aforesaid fifty three pounds and eight shillings by the said I P in his life time, to the same P in form aforesaid due. Nevertheless the aforesaid H and I his wife, or either of them, after the said promise and assumption of her the said I, whilst she was sole, as aforesaid made, in no wise regarding, but endeavouring and fraudulently intending the same P of the aforesaid fifty pounds wholly to deceive and defraud, have not paid, nor in any wise for the same contented, the same fifty pounds or any penny thereof to the same P.

Although thereunto the aforesaid H and I his wife afterwards, that is to say the first day of October, in the ninth year of the reign of the said Lord the King that now is, at B aforesaid, by the same P were oftentimes required, but the same to him to pay, or in any wise for the same to content, they have hitherto utterly denied, and both of them have denied, and still do deny, to the damage of him the said P of one hundred pounds, &c. and whereupon, &c.

The Defendants plead, she did not assume.

I W was attached to answer R T of a Plea, wherefore a certain Gelding of him the said R at C found with force and armes he did take, and so much ride, that by the same riding the aforesaid Gelding was many waies the worse; and other harms to him did do, to the great damage of him the said R, and against the peace of the Lord the King that now is, &c. and whereupon the said R by I C his Attorney complains, that the aforesaid I the twenty third day of D, in the tenth year of the reign of the Lord the King that now is, a certain Gelding of him the said R at C late found, with force and arms did take, and so much ride, that by the same riding the aforesaid Gelding was many waies the worse, and other harms, &c. as in others, damage ten pounds.

Case for riding of the Plaintiffs Gelding without leave.

2. de hoc. H. 10. of King Charles.

The Plaintiff saith, that he was of good name, &c. Nevertheless the aforesaid Defendant, the premises well knowing, envying the happy estate of the same Plaintiff, and of his inveterate and premeditated malice, perverly intending to deprive and bereave the said Plaintiff of his good name, fame, credit and repute aforesaid, and to bring the same Plaintiff into publick infamy and ignominy, and utterly to subvert the estate of the same Plaintiff, and to cause him the said Plaintiff to be innocently brought into the peril and danger of the losse of all and singular his Goods and Chattels, and of his Life also, the seventh day of April, in the tenth year of the reign of the Lord the King that now is, at the parish of T in the County of D, the aforesaid Plaintiff for a certain felony taking and leading away of two Sheep of the Goods and Chattels of the same Defendant, then and there falsely and maliciously did accuse, and him the said Plaintiff the Sheep aforesaid feloniously to have stolen, then and there openly and publicly he did declare and give information to divers Subjects of the said Lord the King: And him the said Plaintiff then and there before H R Knight, then and still one of the Justices of the said Lord the King, to keep the peace in the said County of D, and also to hear and determine divers felonies, trespasses and other misdeeds in the same County perpetrated, assigned, then and there for the cause aforesaid he did cause to be brought: And a crime of the suspicion of felony upon him the said R, then and there before the said Justice he did falsely and maliciously impose: And the same R of and concerning the felony aforesaid, by him the said R supposed to be done, he did then and there arrest, and caused him to be examined by the same Justice.

Case for malicious imposing of felony &c. before a Justice of peace.

And thereupon afterwards, that is to say, the eighth day of April, in the aforesaid tenth year of the reign of the said Lord the King that now is, at C aforesaid.

aforesaid, in the County aforesaid, before I P Baronet, the said H R and W Y Esquires, Justices of the said Lord the King that now is, to keep the peace in the said County of D, and also to hear and determine divers felonies, trespasses and other misdeeds in the same County perpetrated, assigned, then and there being, the aforesaid R then and there being present, was then and there, of and upon the premises further examined by the same Justices: And the said Justices then and there plainly perceiving the innocency of the aforesaid R in this behalf, and the malice and false pretences of the said Defendant, and also the affirmation of the same Defendant without any cause or colour, falsely and maliciously against the same Plaintiff to be devised, and with a most wicked mind, altogether to do damage and detriment to the same Plaintiff did then and there deliver the Plaintiff from all further detaining of his body in the present molestation and disquieting by the pretext of the premises, and the said objection and affirmation of the said Defendant, and did suffer him to go at large without bail or main-prize.

By the pretence of which said premises the said Plaintiff, not only in his good name, fame, credit, repute and estimation aforesaid, wherewith he was before that time indued, is many waies hurt and departed, but also, among very many of the faithful Subjects of the said Lord the King that now is, to whom the innocency of the same Plaintiff in this behalf is unknown, he is fallen into a great suspicion of the felony aforesaid. And those the aforesaid Subjects from the company of him the said Plaintiff, as a committer and doer of the aforesaid pretended filthy fact and crime aforesaid, do withdraw and strange themselves, and with the same Plaintiff to negotiate and have commerce as formerly they were wont to do, they utterly refuse and desist. And the same Plaintiff hath been constrained and compelled to expend and lay out divers great sums of money for the manifestation of the innocency of the same Plaintiff in this behalf, and for the having of his purgation and discharge thereupon. And by occasion of the premises he hath wholly lost divers gains and profits which he in doing and performing his lawful businesse might lawfully and honestly have gained, to the damage, of the same Plaintiff of forty pounds, &c. and whereupon, &c.

Case by a Copy-holder of a Mannor for stopping up of a way to a Market.
T 10 of King Charles Roll.

IF, otherwise S, late of C in the County aforesaid Yeoman, was attached to answer C S of a Plea, wherefore, whereas one I S G Widow, was seised of the Mannor of C, with the appurtenances, in the County aforesaid, in his demesne as of fee: Of which said Mannor, one Messuage, forty acres of Land Meadow and Pasture, with the appurtenances, called F in the Parish of C aforesaid, are, and from the time whereof the memory of men is not to the contrary, were parcel and customary Lands of the Mannor aforesaid, and demised and demisable by copy of the Court rolls of the Mannor aforesaid, by the Lord or Lords of the same Mannor to any person or persons whatsoever, being willing to take the same for term of the life of one or two persons successively in possession at the will of the Lord, according to the custom of the Mannor aforesaid.

And the aforesaid I S G, and all those whose estates the same I S G, had at and in the Mannor aforesaid, with the appurtenances, have had, and from the whole time, whereof the memory of men is not to the contrary, have been accustomed to have for themselves and their customary Tenants of the Mannor aforesaid, with the appurtenances, a certain way to go, ride and drive, and also to carry with all and all manner of their carriages from their Mannor aforesaid unto and into a certain highway leading from W in the County aforesaid unto H in the same County, and from thence unto a certain Close of Land, with the appurtenances, now in the Tenure of one H P in the Parish of C aforesaid, called the Broad Close, and in, by and through the same Close, and from the same Close unto a certain other Close of Land, with the appurtenances.

appurtenances, also in the Tenure or Occupation of the aforesaid H P, called R, in the aforesaid parish of C aforesaid, and in, by and through the same Close, and from the same Close unto a certain other Close of Land likewise in the Tenure of the aforesaid H in the Parish of C aforesaid, called the East Moor, with the appurtenances, and in, by and through the same Close, and from the same Close unto a certain other Close of Land, with the appurtenances, now in the Tenure of the aforesaid F S, otherwise I, called G in the parish of C, and in, by and through, divers other Closes of Land, &c. unto the customary Tenements aforesaid, with the appurtenances, all the time of the year at their pleasure, as to the aforesaid customary Tenements, with the appurtenances belonging and appertaining.

And whereas within the Mannor aforesaid, there is had, and is, and from the time whereof, &c. there was had, and was such a custom, that if any Lands or customary Tenements, parcel of the Mannor aforesaid were granted by the Lord or Lady of the same Mannor, or by their Steward of the same Mannor for the time being, by one copy to two persons in the same Copy named, for the term of the life of them, or of either of them longer living successively at the will of the Lord of that Mannor, according to the custom of the same Mannor, that then the first person in such copy should have and enjoy, and ought, and hath been accustomed to have and enjoy such customary Lands and Tenements by such copy so granted to himself alone during his life. And the second person in such copy named should have and enjoy after the death of the same first person, all such customary Lands and Tenements by such copy so granted to himself alone during his life, according to the custom of the Mannor aforesaid.

Custom of the
Manner.

And whereas also within the Mannor aforesaid there is held, and by the time aforesaid there was held, such another custom, that the Will of every customary Tenant dying seised in possession of any customary Lands or Tenements, parcel of the Mannor aforesaid, by copy of Court Rolls of the same Mannor to him for term of his life heretofore granted at the will of the Lord, according to the custom of the Mannor aforesaid, hath had, and held, and hath been accustomed to have and hold such customary Lands and Tenements so granted, whereof her Husband so dyed seised for the term of her life at the will of the Lord, according to the custom of the Mannor aforesaid, if she so long should live sole and unmarried.

Another Cu-
stom.

And the same I S C of the Mannor aforesaid, with the appurtenances, being so as aforesaid seised, the said I S at the Court of her Mannor aforesaid holden at that Mannor, the third day of June, in the eleventh year of the reign of the Lord James late King of England, did grant the aforesaid customary Tenements, with the appurtenances, to some E S and A D, to have and to hold the same Tenements, with the appurtenances, to the same E and A for term of the life of them, and longer liver of either of them successively, at the will of the Lord, according to the custom of the Mannor aforesaid. By virtue of which grant, and of the custom of the Mannor aforesaid, the same E, being the first person in the aforesaid copy of Court Rolls, of the Mannor aforesaid, named, afterwards, that is to say, the fourth day of July, in the aforesaid eleventh year of the reign of the said late King, into the aforesaid customary Tenements, with the appurtenances, did enter, and was thereof seised in his demesne as of freehold for the term of his life, at the will of the Lord, according to the custom of the Mannor aforesaid, the remainder thereof in form aforesaid belonging.

And the said E being so thereof seised, afterwards, that is to say, the first day of Novemb. in the fourteenth year of the reign of the said late King, at the aforesaid Parish of C did marry to his Will, the said C, and afterwards, that is to say, the first day of November, in the fifth year of the reign of the Lord the King that now is, at the aforesaid Parish of C aforesaid, of the

afozesaid customary Tenements, with the appurtenances, Tenant in possession by copy of Court Rolls, of the Mannor afozesaid, to him as afozesaid granted, dyed seised, having at the time of his death the same C his Wife. After the death of which said E, the afozesaid C into the afozesaid customary Tenements, with the appurtenances, did enter, and was, and still is thereof, by virtue of the custom afozesaid, seised in her demesne as of free-hold for term of her life, at the will of the Lord of the Mannor afozesaid, if she shall so long live sole and unmarried.

Pe verthelesse the afozesaid I the premisses afozesaid well knowing, and endeavouring, and maliciously intending her the said C, of the use, commodity, and easement of her way afozesaid, in the said Close called G, to hinder; the twentieth day of April, in the ninth year of the reign of the said Lord the King that now is, hath newly made and erected a certain ditch owerthwart the way afozesaid, in the said Close called G, and one hedge there likewise owerthwart the way afozesaid, with stakes and frith put together, adjoynd and fixed in the soil of the same Close from the way afozesaid there; And the same way in the said Close by digging of the ditch afozesaid, and making and erecting of the hedge afozesaid, he hath utterly stopped up, whereby the same C for a long time could not use her way afozesaid, in, by and thowow the same Close called G, as she ought and was wont to do. And the same C all the commodity, profit, and easement of her way afozesaid, by all the time afozesaid, hath lost, to the damage of her the said C of forty pounds, &c. and whereupon, &c.

Case against a Sheriff for an escape upon a Capias ut legatum.

OP Esquire, late Sheriff of the County of D, was attached to answer W L, who, as well for the Lord the King, as for himself followeth, of a Plea, wherefore, whereas the same W in the Court of the Lord the King that now is, before the Justices of the same Lord the King here, that is to say, at Westm. had impleaded one S L late of, &c. otherwise called, &c. of a Plea, that he should render to him fifty pounds, which to him he then owed and unjustly detained.

And the same S, because he came not before the said Justices of the said Lord the King here, that is to say, at Westm. to answer the said P thereto, according to the law and custom of the Realm of the said Lord the King of England, had been put in Exigent to be out-lawed in the Hustings of the said Lord the King of London. And by that occasion afterwards, that is to say, on munday next after the feast, &c. in the eighth year of the reign of the said Lord the King that now is, was out-lawed.

And whereas also in the Term, &c. in the year, &c. the same P for the speedier expedition of his suit afozesaid, to be had, in the Court afozesaid, before the said Justices of the said Lord the King here, to wit, at Westm. afozesaid, had obtained a certain Writ of the said Lord the King of Capias, against the said S, as is premised, out-lawed, to the Sheriff of the said County of D directed: By which said Writ, the said Lord the King had commanded the same Sheriff of the said County of D that he should not omit for any liberty of his County, but that he should take the afozesaid S, if he should be found in his Bayliwick, and him safely should keep, so that he might have his body before the afozesaid Justices of the Lord the King here, that is to say, such a day then next following, to do and receive what the Court of the said Lord the King here of him should consider in that behalf, and that he should have there then that Writ. And although afterwards, and before the return of the Writ afozesaid, that is to say, the same Term of St. H. in the year, &c. the same P at Westm. afozesaid, in the afozesaid County of M, the Writ afozesaid, in form afozesaid, obtained to the said E. then being Sheriff of the afozesaid County of D, did deliver, in form of law to be executed. And the same E then Sheriff, &c. the afozesaid S, so as afozesaid, out-lawed, afterwards, and before the return of the same Writ, that is to say, such a day and year at T within the Bayliwick

of

of the same Sher iff, by virtue of the same Writ did take and arrest, and him the said S so arrested and taken, in his custody then and there had. Nevertheless the same E Sheriff of the said County as aforesaid, being the due execution of his office of a Sheriff, and his oath for the true and just execution of the same office in that behalf taken, in no wise regarding, but endeavouring as well to defraud the said Lord the King of that which to the same Lord the King appertaineth, by reason of the outlawry aforesaid, as greatly to delay the said P in the prosecution of his suit aforesaid: And also falsely and fraudulently to deceive and defraud the Court of the said Lord the King in this behalf, the said S, afterwards, that is to say, such a day and year, &c. at L in the Parish, &c. the same P of his debt aforesaid not being satisfied against the will of him the said W, and without the commandment of the same Lord the King, did voluntarily suffer to go out of the custody of the same Sheriff at large whither he would, in contempt of the said Lord the King, and the deceit of the said Court of the said Lord the King, and also the great damage and grievance of him the said P, and the manifest delay of his suit aforesaid, to the damage, &c.

The City of Exeter, ss. I C late of, &c. was attached to answer P M of a Plea wherefore, whereas the same P for divers years now last past, was, & still is a common Carrier: And by all the same time hath used and been accustomed to carry whatsoever Goods and Chattels, Merchandises and Wares, of any person or persons whatsoever, from the aforesaid City of E unto the City of London, and from the City of L aforesaid to the said City of E.

And whereas also the aforesaid I afterwards, that is to say, such a day and year at the aforesaid City of E, in consideration that the same P at the special instance and request of him the said I, would carry for the same J, from the aforesaid City of L unto the said City of E, divers Wares and Merchandises inclosed, and contained in certain Packs, weighing in themselves 580 li. weight, did assume upon himself, and to the same P then and there faithfully promised, that he the said J would well and faithfully pay and content to the said P so much money for the carriage of the same Wares and Merchandises in the same Packs contained and inclosed, from the aforesaid City of L unto the said City of E, as the carriage of the same should be reasonably worth, when he should be thereunto afterwards required.

And the same P in fact saith, that he giving credit to the aforesaid promise and assumption of the said I afterwards, that is to say, such a day and year, at the aforesaid instance and request, did carry for the same I from the aforesaid City of L unto the said City of E the aforesaid several wares and Merchandises in the aforesaid severall packs as aforesaid inclosed, weighing in themselves the aforesaid 580 li. weight, and that the carriage of the same wares and merchandises for the said I from the aforesaid City of L unto the aforesaid city of E was reasonably worth for every pound weight thereof, one penny, in the whole amounting to forty eight shillings and eight pence. Nevertheless the aforesaid I his said promise and assumption in no wise regarding, &c. as in others, request layd at the City of E damage ten pounds, &c. And whereupon, &c.

I W was attached by a Writ of the Lord the King of Priviledge fourth of A Declaration the Court here issuing, to answer T C Gent. one of the Attornyes of the by an Attorney for his fees, costs and expences well drawn, E 5 of King Charles, Court of the Lord the King of the Bench here, according to the Liberties and priviledges of the same Court, for, &c. of a plea of trespass upon the case, &c. And whereupon the same T in his own person complaineth, That where, as the aforesaid J such a day & year, at L in the Parish of blessed Ma. of Bow in the Ward of Cheap, in consideration that the same T at the special instance & request of him the said I as the Attornye of the same I & one I B would appear for

Case by a common Carrier against a Merchant for the carriage of merchandises, upon an assumption to pay as much as the carriage should be worth. M 6. of King Charles.

for the same I and I in the Court of the Lord the King of the Bench to a certain Action of debt by some T D and R B against the same I and I in the same Court prosecuted, and would defend the same suit for the said I and I in the same Court, did assume upon himself, and to the same T then and there faithfully promised, to pay to the same T, as well for his Attorneys fee, every Term that the same T the suit aforesaid in the said Court of the said Lord the King of the Bench aforesaid, for the same I and I, as their Attorney should defend, three shillings and four pence, as the reasonable expences and costs by him the said T to Counsel, Officers, Clerks and other Ministers of the same Court, in and about the defence of the suit aforesaid, to be laid out and disbursed.

And the same T in fact saith, that he afterwards, that is to say, the same eighth day of May, in Easter Term, in the fourth year abovesaid, in the said Court of the said Lord the King of the Bench here, did appear for the aforesaid I and I, as their Attorney, in the same Court, and by the same Easter Term, and the Term of the holy Trinity then next following, did defend the aforesaid suit for the same I and I, against the aforesaid T D and R B: And that six shillings and eight pence to the same T C for his Attorneys fees in the same Termes had been due and payable. And the same T did lay out and disburse thirty and seven shillings to the Counsel, Officers & Ministers of the same Court here, in fees, charges and expences, towards the defence of the suit aforesaid. Which said sums of money in the whole amount to forty four shillings and eight pence.

Nevertheless the aforesaid I his said promise & assumption in no wise regarding, but endeavouring and fraudulently intending the same T C of the aforesaid forty four shillings and eight pence craftily and subtilly to deceive and defraud, hath not paid the aforesaid forty four shillings & eight pence to the same T C, although thereunto the said I W, by the same T C had been oftentimes required, but the same to him hitherto to pay, or in any wise to content for the same, he hath utterly denied, and still doth deny, whereupon he saith, &c. damage ten pounds, and thereof he bringeth suit, &c.

Pledges for prosecuting, } John Doo.
Richard Roo.

Case against a
common Carrier
from one
City to another
City, for
losing of goods
to him delivered
to carry.

The City of E. fl. The Plaintiff complains of the Defendant, &c, of that, that whereas the Defendant such a day and year was, and had been, and alwayes afterwards hitherto hath been, and still is, a common Carrier of the Goods and Merchandises of whatsoever persons, from one Town to another Town, and from one City to another City within this Realm of England. And whereas, according to the law and custom of this Realm of England hitherto used and approved, every common Carrier of the Goods or Wares of any person from one Town to another Town, or from one City to another City, within this aforesaid Realm of England, who the Goods or Wares of any person in his hands or custody, by himself or his servant, to be carried in form aforesaid, should receive, is holden and bound providently and circumspectly to carry the same Wares and Goods, lest any damage, harm, wast or losse should in any wise come to the said Goods and Wares, in default of the provident circumspection and care, and safe custody of the same Goods and Wares by the same Carrier.

And whereas also the said Plaintiff such a day and year at the aforesaid City of E, in the County of the same City, had been possessed of the Goods and Merchandises following, that is to say, of one peice of Serges, containing in its self twenty two peices of good and merchantable Serges, to the value, &c. as of his proper Goods and Merchandises: And being so thereof possessed, such a day and year at the aforesaid City of E, in the County of the City of E, did commit and deliver the aforesaid peice of the Serges aforesaid to the hands and custody of the aforesaid Defendant, by the same Defendant, from the
aforesaid

aforesaid City of E unto the City of L, safely, securely and diligently without any damage to be carried & brought, and to the said Plaintiff, and one L B Citizen of London, in the week then next following, to be delivered. The same Defendant taking and having of the said Plaintiff as much as he should reasonably deserve for the carriage aforesaid, upon reasonable request to him to be made. And the said Defendant the same Goods and Wares, to carry the same in manner and form aforesaid, as it is premised, in his hands or custody had and received.

And whereas the aforesaid Plaintiff afterwards, that is to say, such a day and year at the aforesaid City of E, in the County of the same City, was likewise possessed of the Goods and Wares following, that is to say, of one peice, &c. to the value, &c. one other piece of Cloth, &c. to the value, &c. as of his own proper Goods and Wares. And being so thereof possessed, the same Plaintiff such a day and year, at the aforesaid City of E, in the County of the same City, did commit and deliver the aforesaid two peices, and one half of a peice of the said linnen clothes, last mentioned, to the hands and custody of the said Defendant, by the same Defendant, from the aforesaid City of Exeter unto the said City of London, safely to be carried and brought for the said Plaintiff, and there in the week then next following to one R S and I H, that is to say, the aforesaid peice containing in it self 26 pieces of wollen cloth to the aforesaid R S, and the aforesaid other peice and one half of a peice to the aforesaid I H to be delivered. The same Defendant taking and having of the said Plaintiff as much as he should reasonably deserve for the same carriage, upon reasonable request to him to be made. And the same Defendant the same two peices and one half of a peice, last mentioned, to be carried and delivered in form aforesaid, in his hands and custody had and received. Nevertheless the aforesaid Defendant, having no regard to the aforesaid laudable law and custom of this Realm of Engl. but endeavouring & fraudulently intending the same Plaintiff in this behalf craftily and subtilly to deceive, defraud and wrong, the aforesaid one peice, first above mentioned, did so negligently and improvidently carry and bring, that in the carriage and bringing thereof the Goods and Wares aforesaid in the same, being as aforesaid, were moistened & coloured, as it were wet in the rain, & by reason thereof became rotten, corrupt, & almost of no value, when they came to the hands of the aforesaid L B at the City of London aforesaid. And also the same Defendant the aforesaid two peices and one half of a peice of the wollen cloth above last mentioned, so negligently and improvidently did carry and bring, that in the carriage and bringing thereof the aforesaid Goods and Wares, in the same as aforesaid being, were wholly and utterly lost, and never afterwards came to the hands and possession of the said R S, and I H, or of any of them, or of him the said Plaintiff or to any of their use or benefit, whereupon he saith, &c.

The Defendant pleaded not guilty.

HT late of I in the County aforesaid Peoman, was attached to answer B Bos of a Plea, wherefore, whereas the same B, with the aforesaid H, to buy a certain Mare of him such a day and year at T late had bargained, the same Mare to the same B warranting, to be the proper Mare of him the said H, and to him of right to belong & appertain, whereas in truth the Mare aforesaid was the Mare of one R I, the Mare aforesaid for a certain Gelding of him the said B to the said H, then to the proper use of the same H delivered to the same B, did falsly and deceitfully sell, to the damage of him the said B of twenty pounds, &c. and whereupon, &c.

IG the elder was attached to answer T N of a Plea, wherefore, whereas one T G father of the same I the twentieth day of June, in the ninth year of the on an assumption of the Executor in consideration that the Plain, being the father, promised to procure the infants to deferre their suit for the legacies given, &c. and to give day of payment, &c. E 12 of K Charles Roll,

Case upon a warranty of the Defendant of a Mare, &c.
Q. Whether to say that he sold the Gelding for the Mare be good? Because that he exchanged, seems to me to be better.

Case upon a promise against an Executor by the father of the Legatees. upon

reign

reign of the Lord the King that now is, at S had made his last Will and Testament in writing, and had constituted and ordained the same I Executor of the same his Testament. And whereas also the same T by his said Will had given and bequeathed to certain children of the same T, namely, T N twenty shillings, M N other twenty shillings, E N other twenty shillings, A N other twenty shillings, R N other twenty shillings, I N other twenty shillings, H N other twenty shillings, and M N other twenty shillings, and afterwards dyed. And whereas also the said T, M, E, A, R, I, H, and M had intended to sue the aforesaid I for the several sums of money to them respectively as aforesaid bequeathed, and of such their intention had given notice to the said I.

The aforesaid I afterwards, that is to say, the twenty ninth day of April, in the tenth year of the reign, &c. at S aforesaid, in consideration that the same T N Plaintiff, at the special instance and request of the said I, had assumed upon himself, and to the said I had faithfully promised, to procure the aforesaid T, M, E, A, R, I, H, and M, the children of him the said T, now the Plaintiff, to deferre their suit so as aforesaid against the said I intended, and to give to the same I a further day for the payment of the aforesaid several sums of money, to the same children as aforesaid bequeathed, until the feast of St. M the Archangel then next following, did assume upon himself, and to the same T then and there faithfully promised, that he the said I G would pay to the same T N Plaintiff, to the use of the said T, M, E, A, R, I, H, and M, his children, the aforesaid several sums of money, to them as aforesaid severally bequeathed, upon the aforesaid feast of St. M the Archangel.

And the same T N Plaintiff in fact saith, that although he had procured his aforesaid children to deferre their suit against the aforesaid I intended, and to give to the same I a further day for the payment of the same several sums of money, to the same children as aforesaid given, until the aforesaid feast of St. M the Archangel.

Nevertheless the aforesaid I G, his promise and assumption aforesaid in no wise regarding, but endeavouring and fraudulently intending the same T, now the Plaintiff, and the aforesaid T, N, M, A, E, R, I, and H, his children, in this behalf craftily and subtilly to deceive and defraud, the aforesaid several sums of money, in the whole amounting to eight pounds, to the said T, M, E, A, &c. the said children, as aforesaid bequeathed to the same T the Plaintiff, to the use of the said children, according to his said promise and assumption hath not paid: But the same to him hitherto to pay he hath refused, and still doth refuse, to the damage of him the said T N the Plaintiff of twenty pounds, &c. and whereupon, &c.

T Cory Attorney for the Plaintiff.

Case against a
one for the de-
taining of an
Apprentice a-
gainst the will
of his Master,

Wherefore, whereas one R, the son of the aforesaid Defendant, by a certain Indenture, bearing date such a day and year, at T in the County aforesaid, in the service of the same Plaintiff duly and lawfully was retained and placed after the manner of an Apprentice in the Art of a Physician, which the said Plaintiff did then use, to be instructed until the end and term of seven years thence next following, and fully to be compleat and ended. And the same R by the space of one year and the half of one year, after the aforesaid such a day, &c. the date of the Indenture, in the service of the same Plaintiff in his Art aforesaid as an Apprentice did serve, whereby the same Plaintiff divers great gains and profits of the labour and service of the same R his Apprentice, in his Art aforesaid, hath gotten and gained.

Nevertheless the aforesaid Defendant not being ignorant of the premises, but endeavouring him the said Plaintiff, of the service of his Servant and Apprentice aforesaid, and of all the profits, advantages, and gains, which he the same

same Plaintiff, by reason of his Apprentice aforesaid, might have or gain, craftily and subtilly to deceive and make worse, such a day and year at T aforesaid, knowing the aforesaid R to be the Apprentice and Servant of the same Plaintiff, and in his service after the manner of an Apprentice retained, did procure and incite the said R to depart and elope himself from his service: And him the said R, against the will of the same Plaintiff, from the said service of the same Plaintiff with a strong and violent hand did take away and still detains, whereby the same Plaintiff the service of him the said R his Apprentice aforesaid, for a long time, that is to say, by the space of, &c. hath wholly lost, to the damage, &c.

In the Count only.

That whereas one I M, father of the Plaintiff, in and by his last Will and Testament in writing, had given and bequeathed to the said Plaintiff twenty pounds, and of the same his Testament and last Will did constitute M his Wife to be his Executrix. And afterwards, that is to say, such a day and year at the C of E died, after whose death the said M did take upon her the burden of the execution of the Testament aforesaid, and in due form of law proved the same Testament. And divers Goods and Chattels, which were of the aforesaid I at the time of his death, at the aforesaid City of Exeter, after the death of the said I, that is to say, such a day and year to the hands and possession of the said M, came to be administered.

And whereas afterwards, that is to say, the same day and year, the aforesaid twenty pounds or any part thereof to the aforesaid E then being unpaid, the said Plaintiff had purposed and intended to sue and implead the aforesaid M then being known by the name of M R Widow, for the aforesaid twenty pounds to the said Plaintiff as aforesaid bequeathed and unpaid. The aforesaid Defendant afterwards, that is to say, such a day and year at the C of E aforesaid, in consideration that the same E, at the special instance and request of the aforesaid Defendant, would accept of the said M for the payment of eight pounds to the said E, for the interest of the aforesaid twenty pounds to the same E then unpaid and being in arrear, and for the payment of five pounds for the like sum of five pounds by her the said Plaintiff to the aforesaid M then for merely lent, and to the same Plaintiff, then not being paid, in the whole amounting to thirteen pounds: And that the aforesaid Plaintiff would make to the said M a general release in writing, did assume upon himself, and to the same Plaintiff then and there, that is to say, the same day and year at, &c. faithfully promised, that he the said Defendant would well and faithfully pay and content to the said Plaintiff the aforesaid twenty pounds, to the same Plaintiff by the said I M so as aforesaid bequeathed.

And the said E the Plaintiff in fact saith, that she, giving credit to the aforesaid promise and assumption of the said Defendant, at the aforesaid instance and request of him the said I C the Defendant, afterwards, that is to say, such a day and year at the aforesaid City of E, did accept of the security of the said M by the obligation of her the said M, in the penal sum of twenty six pounds, for the payment of the said eight pounds for the said interest, and of the said five pounds, so as aforesaid lent, in the whole amounting to the aforesaid thirteen pounds to the same Plaintiff to be made. And did likewise then and there make to the aforesaid M a general release in writing. Nevertheless the aforesaid Defendant, &c.

Wherefore, whereas such a day and year a certain communication had been had between the same Plaintiff and the Defendant, of and concerning a certain wrestling betwixt the same Plaintiff and the Defendant to be made, and of and concerning the sum of forty shillings then in the hands of the said Defendant remaining, in difference between the same Plaintiff and Defendant: Upon which said communication then and there

Case upon an assumption for 20 li. for a Legacy by the father in consideration that the Plaintiff, at the instance of the Defendant, would take security, &c.
T 12. of King Charles in the K Bench.
Macey against Croffe.

Q Whether it be better to say, bound in a penal sum with a condition for the payment of the aforesaid 16 li. &c.

Case upon wrestling whereby either of the Wrestlers did assume to pay 40 s. after the fall given to either party.
T 12 of King Charles Roll,

between the same Plaintiff and Defendant it was concorde and agreed, that the same Plaintiff and Defendant the aforesaid thirteenth day of March, in the tenth year abovesaid, should wastle together. And if I G, and I T, Esquires, then and there present, men indifferently chosen between the said Plaintiff and Defendant, after the said wassling between the same Plaintiff and Defendant made, should adudge that the said Plaintiff in the said wassling had given the said Defendant a fair fall, or in the same wassling had given the said Defendant three foys: then the aforesaid Defendant should pay and deliver to the same Plaintiff, not only the aforesaid sum of forty shillings, so in the said difference between the same Plaintiff and Defendant, but also forty shillings over and above, in the whole amounting to eighty shillings of lawful money of England. And if the said I G, and I T, after the said wassling between the same Plaintiff and Defendant made, should adudge that the said Defendant in the said wassling had given the said Plaintiff a fair fall, or in the same wassling had given the said Plaintiff three foys, then the said Plaintiff, not only all the claim and interest which he had or pretended to have in the aforesaid sum of forty shillings, so in the difference abovesaid, between the same Plaintiff and Defendant, to the same Defendant should release and acquit. And also forty shillings likewise over and above to the said Defendant he should give and pay. And thereupon the aforesaid I T the said such a day and year at L aforesaid, in consideration of the premises aforesaid, And that the same Plaintiff then and there did assume upon himself, and to the said I T faithfully promised, that he the said Plaintiff would perform the aforesaid concord and agreement in all things on the part of the same Plaintiff to be fulfilled, according to the form and true intent of the concord and agreement aforesaid, did assume upon himself, and to the same Plaintiff then and there faithfully promised, that he the Defendant would perform the aforesaid concord and agreement in all things, on the part of him the said Defendant to be fulfilled, according to the form and true intent of the concord and agreement aforesaid.

~ And the same Plaintiff in fact saith, that the said Plaintiff and Defendant afterwards, that is to say, such a Day and year at L aforesaid, according to the concord and agreement aforesaid, did wastle together, and that the same Plaintiff then and there in the said wassling did give the said Defendant a fair fall, which said fair fall the same Plaintiff further saith, that the same I G and I T afterwards, that is to say, such a day and year at L aforesaid did adudge to be a fair fall. Nevertheless the aforesaid Defendant his promise and assumption aforesaid, &c.

Case for the Tenant of a Copy-holder against another for digging of turfs upon the common of the Copy-holder, by reason whereof the tenant could not enjoy the common for his Cattel as freely as before.

DEvon. ss. M P complaineth of T O, otherwise W, and I C the younger, in the custody of the Marshal of the Marshalse of the Lord the King, before the King himself, for that, to wit, that whereas the Lord the King that now is had been seised of the Mannor of O of blessed Mary, with the appurtenances, in the County aforesaid, whereof one Messuage, one Garden, three Wycharde, fifty acres of Land, ten acres of Meadow, forty acres of Pasture, twenty acres of Heath and Furies, and four acres of Wood, with the appurtenances in Fluxton in the Parish of O of blessed Mary aforesaid are, and from the time whereof the memory of men is not to the contrary, were parcel in his Demesne as of fee, in right of his Crown of England. And whereas also the Tenements aforesaid, with the appurtenances, are, and from all the time aforesaid were Tenements customary of the Mannor aforesaid, and demised and demisable by copy of Court Rolls of the Mannor aforesaid, by the Lord or Lady of the Mannor aforesaid, or by their Steward of the Court of the same Mannor, to any person or persons whatsoever, willing to take the same to themselves and their heirs at the will of the Lord or Lady, according to the custom of the Mannor aforesaid.

And

And the said then Lord the King of the Mannor aforesaid, with the appurtenances, whereof, &c. in form aforesaid being seised, the same Lord the King that now is, at the Court of the same Lord the King that now is, of his Mannor aforesaid, holden at that Mannor, such a day and year, by one E P Esquire, then his Steward of the Court of the same Mannor, by copie of Court Rolls, of the same Mannor, did grant the Tenements aforesaid, with the appurtenances, by the names of one Messuage or Tenement, and eight furlongs of Land, with the appurtenances, to one I S Gent. to have and to hold to the same I S and his Heirs at the will of the Lord, according to the custom of the Mannor aforesaid: By virtue of which grant the aforesaid S into the Tenements aforesaid, with the appurtenances, did enter, and was, and still is thereof seised in his Demesne as of fee, at the will of the Lord, according to the custom of the Mannor aforesaid.

Reveiw by
Mr. Roll and
Mr. Serjeant
Maynard,
Counsellors.

And whereas also within the Mannor aforesaid there is, and from the time whereof, &c. there was such a custom, that every customary Tenant of the Mannor aforesaid, having or holding any customary Tenements of customary Tenure, parcel of that Mannor to him and his Heirs at the will of the Lord, according to the custom of the same Mannor, from all the time aforesaid, might and had been accustomed to demise by his Indenture at his pleasure, his Tenements customary of the same Mannor, or any parcel thereof, to any person willing to take the same for the term of one and twenty whole years, from the making of such demise, or for a lesser term of years, at the will and pleasure of such customary Tenant.

Custom of the
Mannor al-
luded for the
demise of Co-
pi-hold of in-
heritance for
years.

And whereas also within the Mannor aforesaid there is, and from the time whereof, &c. there was such another custom, that the customary Tenants of the Tenements aforesaid, whereof the aforesaid S, in form aforesaid is seised to him and his heirs, according to the custom of the Mannor aforesaid have had, and have been accustomed to have for themselves their Farmers and Tenants for term of years, according to the said custom of the Mannor aforesaid, Common of pasture in a certain place in O of blessed Mary aforesaid, parcel of the Mannor aforesaid, called Fluxton Down aforesaid, otherwise Ottery West Down, for all and all manner of their commonable Cattell upon the Tenements aforesaid, with the appurtenances levant and couchant every year all the time of the year, as to the Tenements aforesaid, with the appurtenances appertaining.

Custom of the
Mannor to
have Common
of pasture for
their common-
able Cattell.

And the aforesaid S, of the aforesaid customary Tenements, with the appurtenances, in form aforesaid, being seised, after the aforesaid grant thereof to him in form aforesaid made, that is to say, such a day and year at O of blessed Mary aforesaid, by his certain Indenture, between the aforesaid S of the one part, and him the said M of the other part made. The other part whereof, with the seal of the said S signed, the same M here in Court sheweth forth, the date whereof is the same day and year, did demise to the same M the Tenements aforesaid, with the appurtenances, except afterwards in the same Indenture excepted, by the names of all that Messuage or Tenement, and eight furlongs of Land, with the appurtenances, situate, lying, and being within F aforesaid, in the parish of O, late in the possession of G I deceased, Gent. father of the said S I, his Assigne or Assignes. And of all the Houses, Edifices, Barnes, Stables, Orchards, Gardens, Lands, Meadows, Pastures, Feedings, and Common of pasture to the aforesaid Tenements, and premises belonging or in any wise appertaining, or then or at any time theretofore reputed, taken, used, demised or enjoyed, and with the same, as part, parcel or member thereof, (except and alwayes reserved out of the same demise and grant to the said S, his Heirs and Assignes, all manner of timber trees then standing, growing or being in or upon the premises, or any part thereof, the Barlour, the Chamber over the same, and the Study into the Tenements aforesaid, and two little parcels of Land on the East side of the River there: And also

An Indenture
by a Copi-hol-
der to another
for term of
years pleaded.

the use of the Hall, and Chamber over the same, of the Kitchen, Buttery, Stable, and the Hearb Garden, in common with the same M, at such times as the said S I and his Wife should come to the Tenements, with free liberty to come and go to and from the same at his and their wills and pleasures: And also except and reserved to the said I, his Heirs and Assignes, all such Closes or parcels of Land of the aforesaid demised premises, in which any Corn or Grain was then growing, until such time as the same Grain should conveniently be housed: And also the South end of the Barn thereof, until the feast of the Annunciation of the blessed Virgin Mary next following, after the date of the same Indenture, with free liberty to come and go to and from the same) to have and to occupy the aforesaid Tenements and other the premises, with the appurtenances, except before excepted, to the same M and his Assignes, from the feast of the Annunciation of the blessed Virgin Mary last past, before the date of the same Indenture, for and during the term of five years, from thence next ensuing fully, to be compleat, as by the same Indenture, amongst other things, it more fully appeareth. By virtue of which demise the said M into the tenements aforesaid, with the appurtenances, except before excepted, did enter, and was and still is thereof, except before excepted, possessed. And by virtue of the same demise, the aforesaid Common of pasture, for all his commonable Cattel, in and upon the aforesaid places called Fluxton Down, otherwise O West Down, he ought to have and enjoy.

Nevertheless the aforesaid T and I not being ignorant of the premises, but endeavouring and intending, and both of them endeavouring and intending him the said M, of his said Common of pasture, in the aforesaid place called Fluxton Down, otherwise O West Down, to be had unjustly to hinder, and of the profit thereof wholly to deprive, such a day and year, and divers days and times, as well before the same such a day as afterwards, turfs, that is to say, ten thousand horse loads of turfs in the aforesaid place, called F, otherwise O, did dig, and by the digging of the same turfs, and the laying and spreading of the same turfs in divers several places, in and upon the aforesaid place called F, otherwise O, the grasse growing did tread down, consume and spoil, whereby the same M could not have his aforesaid Common of pasture, for his said Cattel, upon the aforesaid Tenements, with the appurtenances, leasant and couchant in the aforesaid place called F, otherwise O, in such ample and beneficial manner as he formerly had, and of right ought and was accustomed to have, to the damage of him the said M of forty pounds, &c.

Case for diverting of a water from an ancient Mill, by the exalting of Cloughs.
T 12 of King Charles, Roll 1422.

Wherefore, whereas one T Lord S was seised of and in two Water Cournills, called W, with the appurtenances, in W in his Demesne as of fee: To which said Mills a certain water course of a certain Riber called C, so great a part thereof as would suffice to cause the Mills aforesaid to grind in the best and most beneficial manner, every year all the time of the year, from the time whereof the memory of men is not to the contrary, was used, and wont to run down and flow, and ought to run down and flow.

And the said T Lord S of the Mills aforesaid, with the appurtenances, in form aforesaid being seised, the same T Lord S afterwards, that is to say, such a day and year at W aforesaid, did demise the Mills aforesaid, with the appurtenances, amongst other things, to one A B, to have and to occupy to the same A and his Assignes, for and during the term of twenty and one years, from thence next following, and fully to be compleat. By virtue of which demise the same A into the Mills aforesaid, with the appurtenances, did enter, and was thereof possessed: And being so thereof possessed, the aforesaid Defendant such a day and year at W aforesaid, certain Cloughes next to the water-course aforesaid late erected, and placed in such measure, did open and elevate, and so open and elevated did so long keep, that so great a part of the water-course aforesaid, which to the Mills aforesaid had ought to run down and flow from those Mills, unto

unto a certain fulling Mill in the Occupation of the said Defendant there
 near adjoining and late erected, by that occasion did run, was diverted, that
 the aforesaid Mills of the same Plaintiff, from the aforesaid, such a day and
 year, until such a day and year, from thence next following, for want of sufficiency
 of water, in the best and beneficial manner for the same Plaintiff, could not
 grind: And so the same Plaintiff a great part of the profit of his said Mills
 which otherwise he might have had and perceived, if the aforesaid Defendant
 the premises had not perpetrated, by occasion of the same premises
 hath utterly lost, to the damage of him the said Plaintiff of twenty pounds,
 &c.

Q. If the Def.
 the premises
 had not perpe-
 trated, be good
 or not.

Som. H, W P late of S in the County aforesaid Husbandman, was attached
 to answer A C of a Plea, wherefore, whereas one T G Esquire, and H his
 Wife, were late Lords of the Mannor of S, with the appurtenances, in the
 County aforesaid, whereof one Water Corn Mill, called S Mill, with the ap-
 purtenances, is and from the time, whereof the memory of men is not to the
 contrary, was parcel and customary Tenement of the Mannor aforesaid, and
 demised and demisable by Copy of Court Rolls of the same Mannor, to any
 person or persons willing to take them for the term of one, two, or three lives,
 successively, at the will of the Lord or Lords of the Mannor aforesaid, accord-
 ing to the custom of the same Mannor. And the said T and H being so Lords
 of the Mannor aforesaid, the said T and H, at their Court of their Mannor
 aforesaid holden at that Mannor such a day and year, by copy of Court Rolls of
 the same Mannor, did grant to one I C deceased, father of the said I, the same
 I C, and one R C, the aforesaid Mill with the appurtenances; to have and to
 hold to the same I I and R for the term of their life, or of the longer liver of
 any of them successively, at the will of the Lord, according to the custom of
 the Mannor aforesaid.

Case by one
 Copi-holder
 against ano-
 ther Copi-hol-
 der, for not
 grinding of
 grain at the
 customary Mill
 T 12 of King
 Charles, Roll
 2166.

And whereas also within the Mannor aforesaid there is, and from all the
 aforesaid time whereof, &c. there was such a Custom, that if any customary
 Tenements, parcel of the Mannor aforesaid, were granted by one copy of the
 Rolls of the same Mannor to two or any three persons in one copy named, then
 the first person in such copy first named hath had, and held such Tenements
 by the same copy so granted to himself alone during his life, at the will of the
 Lord, according to the custom of the Mannor aforesaid. And such person in
 such copy secondly named, after the death of such person in the same copy
 first named, hath had, and held such Tenements by the same copy, so granted
 to himself alone during his life, at the will of the Lord, according to the
 custom of the Mannor aforesaid. And such person in such copy thirdly na-
 med, after the death of such persons in the same copy so first and secondly
 named, hath had, and held such customary Tenements by the same copy
 so granted to himself alone during his life, at the will of the Lord, according
 to the custom of the Mannor aforesaid. By virtue of which grant the aforesaid
 I C the father, being the first person in the same copy named, into the
 Mill aforesaid, with the appurtenances, did enter, and was thereof seised
 in his Demesne, as of freehold, for the term of his life, at the will of the
 Lord, according to the custom of the Mannor aforesaid.

The alledging
 of a custom
 for three lives,
 to hold in suc-
 cession by a
 Copi-hold e-
 state.

And the aforesaid I C, the father, of the Mill aforesaid, with the appurte-
 nances, in form aforesaid being seised, the same I afterwards, that is to
 say, such a day and year at S died: After whose death the same I C the son,
 being the second person in the copy aforesaid named, into the Mill aforesaid,
 with the appurtenances, did enter, and was and still is thereof seised in
 his Demesne, as of frank-tenement, for the term of his life, at the will of the
 Lord, according to the custom of the Mannor aforesaid.

And whereas also the aforesaid W is, and by the space of four years now
 last past was, Tenant and Occupier of three Messuages, and sixty acres of
 Land

Land meadow and pasture, with the appurtenances, in S aforesaid, parcel of the Mannor aforesaid.

And whereas also it is used, and from the time, &c. it hath been used within the Mannor aforesaid, that all Occupiers of the same Tenements, with the appurtenances, from all the time abovesaid, have ground and have used and been accustomed to grind all and all manner of their grain expended in and upon the same Tenements, with the appurtenances, at the Mill aforesaid, and have used and been accustomed to pay the toll thereof to the same I, and all other Occupiers and Tenants of the Mill aforesaid for the time being, for the grinding of such their grain.

Nevertheless the aforesaid W, the said premises well knowing, endeavouring and fraudulently intending the same I of the profits and commodity which to the same I, of the grinding of such grain of the said W in and upon his said Tenements expended, might have come and happened, to frustrate and deprive, and the Mill aforesaid to destroy, and ruin to his grain, that is to say, thirty quarters of Wheat and thirty quarters of Barley of the said W, in and upon the Tenements aforesaid, after such a day and year, and before the day of the obtaining of the original Writ of him the said I, (that is to say) such a day and year, expended at the Mill of the same I, did not grind, but the same grain at some other Mills he did grind, whereby the same Plaintiff the toll of the same grain did wholly and utterly lose, to the damage of him the said I of forty pounds, &c. and whereupon, &c.

Case against a Sheriff, for impannelling them to be in Juries who had not 4 li. by the year in fee-hold, according to the form of the Statute, &c.

S H. I C complaineth of H H Esquire, late Sheriff of the County aforesaid, in the custody, &c. for that (to wit) that whereas by the law and custom of this Realm of England, hitherto obtained and approved, no person or persons, inhabiting and residing in any County of this Realm of England, in any Assizes, Juries or Recognitions before the Lord the King, or his Justices of the Bench at Westminster, unless such person or persons who were freeholders, having four pounds of Lands, Tenements or Rent by the year in fee-simple, within such County inhabiting and residing, according to the Law and Statutes of this Realm of England, in such Assizes, Juries and Recognitions ought to be put.

Nevertheless the aforesaid H, not being ignorant of the premises, endeavouring and intending him the said I C in this behalf to grieve, and knowing well enough the same I C not to have Lands, Tenements, or Rent of four pounds by the year in the County aforesaid holden in fee-simple. The aforesaid H H such a day and year, then being Sheriff of the County aforesaid, did put him the said I C, at Crewkerne in the County aforesaid, into a certain Jury of the County, to try a certain issue between one M W Plaintiff, and H R Defendant, in a certain Plea of _____ in the Court of the same Lord the King, then holden at Westminster in the County of Midd. before, &c. and his Associates, then Justices, &c. by the County in the County of Som. joined, he the said J, then not having any Lands, Tenements or Rent in the County aforesaid, for which, according to the form and effect of the Law of the Land and Statutes in such case provided, upon the same Jury he ought to be put. And the said H H, then being Sheriff of the County aforesaid, did put him the said I C upon the aforesaid Jury, between the said M W, Widow, Plaintiff, and the said H R, contrary to the form and effect of the Law of the Land, and the Statutes aforesaid.

And also the aforesaid H H the same day and year at C aforesaid, then being Sheriff of the County aforesaid, did put the said I C upon a certain other Jury of the County, to try a certain other issue between one I R Plaintiff, and I H Defendant, of a Plea of _____ in the Court of the

the same Lord the King, then holden at Westminster in the County of Midd. before and his Associates, then Justices of the said Lord the King at Westminster aforesaid, by the Country of the aforesaid County of S joyned, contrary to the form and effect of the Law of the Land and Statutes aforesaid.

And also whereas the aforesaid H H the day and year above said at C aforesaid, then being Sheriff of the aforesaid County of S, did put the said I C upon two Juries of the Country, to try two other issues between one I B Plaintiff, and D Y Defendant, of a Plea of severally in the County of Midd. before and his Associates then Justices of the said Lord the King at Westminster aforesaid, by the Country of the aforesaid County of S joyned, contrary to the form and effect of the Law of the Land and the Statutes aforesaid. And also, &c. and he was put a Jury on other issues. By reason whereof the same I C afterwards (that is to say) the three and twentieth day of March, in the aforesaid tenth year of the reign of the said late King that now is, at the Castle of Taunton in the aforesaid County of S, upon the said several issues in form aforesaid returned and impannelled before then Justices of the same Lord the King, assigned to take Assizes in the aforesaid County of S, by form of the Statute, &c. was amerced to ten shillings. And the same I C is not only greatly hurt and impaired in his state, and in his goods, and Chattels in several levies of the amerciaments aforesaid, above imposed upon him by the malice and envie of the said H H, then being Sheriff of the aforesaid County of S, But also the same I C was constrained and compelled unduly to pay the amerciaments aforesaid, in the whole amounting to fifty shillings. And divers other amerciaments were imposed upon him the said I C, by reason of the malice, negligence, and improvident care of the said H H, by divers other Sheriffs of the aforesaid County of S his Successors. And divers other sums of money and amerciaments, by occasion thereof, of the goods and chattels of the said I have been levied, and daily are very likely to be levied, to the damage, &c.

T D, late of the City of Exeter, in the County of the City of Exeter, the Elder, Gent. was attached to answer I C of a Plea, wherefore, whereas a certain ship called the Hearts Desire of T in the County of Devon. being of the burthen of fifty Tuns or thereabouts, the twenty eighth day of January, in the tenth year of the reign of the Lord the King that now is, at the City of Exeter, had been bound to Sea in a Merchants voyage to the Western Islands within the Dominions of the King of Spain, and from thence, after its voyage was ended, was to return into the Haven of T in the County of Devon. Cause for not sealing and delivery of an obligation, &c. as his deed to the Plaintiff for the securing of 7 li. 15 s. and 9 d. by him adventured with the son of the Def. in a ship, &c. bound in a voyage to the West. Islands, in which the Def. son went, which obligat. was tendered by the Plaintiff to the Def. to be sealed, &c.

And whereas also one T D, the son of the aforesaid T D, now the Defendant, then and there was determined to go the said voyage in the Ship aforesaid. The aforesaid T D the elder, in consideration that the same I, at the special instance and request of him the said I D the elder, would adventure with the said T D his son seven pounds fifteen shillings and nine pence of lawful money of England in the voyage aforesaid, did assume upon himself, and to the same I then and there (that is to say) the aforesaid twenty eighth day of I, in tenth year abovesaid, at the aforesaid City of Exeter, faithfully promised, that he the said T D the elder, together with the aforesaid T D his son, by his certain writing obligatory with his Seal to be sealed, and as his deed, to the said I to be delivered, jointly and dividually would become holden and bound to the same I in the penal sum of four, teen pounds of lawful money of England, with condition in the same writing to be subscribed, that if the ship aforesaid under God should perform its intended

intended voyage aforesaid. And also if the aforesaid T D the elder, and T D his son, their Executors, Administrators, and Assignes, or any of them, should well and faithfully content, satisfy, and pay, or cause to be paid to the said I C, his Executors, Administrators, or Assignes, the full and whole sum of ten pounds of lawful money of England, within thirty dayes next after the arrival and return of the aforesaid Ship safe to the aforesaid Haven of T, or to any other Port, Haven, or Harbour within the Realm of England, being the intended Haven of unloading of the Ship aforesaid. Which said sum of ten pounds, as is aforesaid, was concluded to be paid in good dry and merchantable Sugars, according to the rate and price of eight pence the pound, to the same I C or his Assignes to be paid, and the freight and custom in England due and payable for the same, or otherwise if the Ship aforesaid, either by leak, or contrary winds, or any other misfortune, should not perform the said intended voyage without alteration of its course. Then if the said T D the elder, and T D the younger, their Executors, Administrators, or Assignes, and every of them, should well and truly pay, or cause to be paid to the said I C, his Executors or Assignes, the full and entire sum of seven pound fifteen shillings and nine pence of good and lawful money of England, within thirty dayes next after the giving over of the voyage aforesaid, every payment thereof to be made and done in the then dwelling-house of the said I C, situate in the aforesaid City of Exeter, without cobin or deceit, that then the same Writing obligatory should be void and of none effect, otherwise it should stand in its full power, force, effect, and virtue.

And the same I C in fact saith, that he giving credit to the promise and assumption of the said T D the elder, in form aforesaid, made afterwards (that is to say) the aforesaid twenty eighth day of J, in the tenth year abovesaid, at the aforesaid City of E, did adventure with the said T D, the son, the aforesaid seven pounds fifteen shillings and nine pence in the voyage aforesaid, in manner and form aforesaid made (to wit) the aforesaid twenty eighth day of I, in the tenth year abovesaid, at the aforesaid City of E, a certain Writing, containing in it self a certain Writing obligatory, in which the aforesaid T D the son, and the aforesaid T D the elder, jointly and dividedly were holden and bound to the said I, in the sum of fourteen pounds, with condition to the same Writing obligatory, in form as it is premised, subscribed; to the said T D the elder, did tender, and upon such tender the same I did require, that he the said T D the elder the aforesaid Writing obligatory, by him the said I in form aforesaid tendered to the same I, together with the aforesaid T D, the son, would seal, and as his deed deliver.

Nevertheless the aforesaid T D the elder his said promise and assumption in no wise regarding, but endeavouring and fraudulently intending the same I in this behalf craftily and subtilly to deceive and defraud, the same Writing or any other such his Writing obligatory, with condition in form aforesaid, as aforesaid to the same Writing obligatory subscribed, to the same I hitherto hath not sealed or delivered, nor to the same I by any such his Writing hitherto he hath become holden or bound, according to his promise and assumption aforesaid. Although hereunto the aforesaid T D the elder afterwards (that is to say) the aforesaid twenty eighth day of I, in the tenth year abovesaid, and oftentimes afterwards at the aforesaid City of E, by him the said I had been required, but the same to him to do he hath utterly refused, and still doth refuse, to the damage of him the said I of thirty pounds, &c.

Case for disturbance of the Parson of the Church of the

Tower of Lond.

IS late of the Tower of London Doctor of Divinity, and S F late of the

of L Provan, were attached to answer A M Clerk of a Plea, where

against the Kings grant by the collection of riches and oblations. The Defendant pleads not

guilty, and gives Symony in evidence, and verdict for the Defendant. Serjeant Henden for the Plaintiff.

fore, whereas the Lord C now King of England, by his Letters patents, under the great Seal of the same Lord the King of England sealed, of his special grace, and of his certain knowledge, and meer motion, had given, and granted, and by his letters patents for himself, his Heirs and Successors, did give and grant to the aforesaid A, by the name of I M Clerk, Master in Arts, the Rectory of St. Peter within the Tower of London then void, and by the resignation of R C the last Incumbent there, and to his donation, collation and free disposition, in full right belonging and appertaining. To have, hold and enjoy the Rectory aforesaid to the said A during his life, together with all and singular the rights, members, fruits, rents, commodities, advantages, houses, emoluments, and other profits and appurtenances whatsoever to the said Rectory in any wise due, accustomed, appertaining or belonging, as by the same Letters patent it more fully appeareth. By precept of which said Letters patents the same A was seised and still is seised of the Rectory aforesaid, with the appurtenances in his Demesne, as of free hold, for the term of his life.

And whereas also the Fees, Profits, Commodities, Regards, and Emoluments to the same A, as Parson of the Rectory aforesaid, are due and belonging: And the same A of the Rectory aforesaid, with the appurtenances, and of the Fees and Regards aforesaid, in form aforesaid being seised. Nevertheless the aforesaid I and S well enough knowing the premises aforesaid, and endeavouring and intending to frustrate and hinder him the said A, not only of the Rectory aforesaid, and of the Fees, Profits, Commodities, Regards, and Emoluments aforesaid, to the same A as Rector aforesaid due, and which he the said A, by reason of being Rector of the Rectory aforesaid, might and ought to have for a long time have hindered, and still do hinder him the said A at Lond. to enter into the Church of St. Peter within the Tower of London aforesaid, to celebrate within the Tower divine services in the same Church, and to administer the Sacraments and Sacramentals there. And the Fees, Profits, Commodities, Regards, and Emoluments aforesaid to the same A, as Rector of the said Rectory of St. Peter within the said Tower of London as aforesaid, due and payable, and to the Rectory aforesaid of right belonging and appertaining to their own proper use have had and received. And the Fees, Profits, Commodities, Regards, and Emoluments aforesaid to the same A as Rector of the Rectory aforesaid, as in right of his Rectory aforesaid, of right due and payable, to have, enjoy and receive, with force and armes by all the time abovesaid, there they have hindered and still do hinder, to the damage of him the said A of forty pounds, &c. and whereupon, &c.

HR late of, &c. was attached to answer I S Administrator of the Goods and Chattels which were of W S, who dyed intestate, &c. of a Plea, wherefore, whereas the said Plaintiff, after the death of the aforesaid W, by reason of the commission of the Administration of the Goods and Chattels of the aforesaid W, at the time of his death, by G, by divine providence late Archbishop of Canterbury, Primate and Metropolitane of all England, had been possessed of divers Goods and Chattels (that is to say) the Goods — to the value of thirty pounds, as of the Goods and Chattels, which were of the said W at the time of his death: And being to thereof possessed, the same I the Goods and Chattels aforesaid out of his hands and possession did casually lose: Which said Goods and Chattels afterwards (that is to say) such a day and year at C to the hands and possession of the aforesaid H by finding came.

Nevertheless the aforesaid H knowing the Goods and Chattels aforesaid to have been the Goods and Chattels of the aforesaid W at the time of his death, and to him the said I, after the death of the aforesaid W, by reason of the

Case in Trover by an Administrator, and the Count special for Goods and Chattels supposed to be lost after the Letters of administration committed.

the Commission of the Administration aforesaid, of right to belong and appertain. Nevertheless endeavouring and intending the same I, to whom the administration of all the Goods and Chattels which were of the aforesaid W at the time of his death, by the said Archbishop, such a day and year at L in the parish, &c. after the death of the said W, was committed, although often times required, hath not delivered. But the said Goods and Chattels afterwards (that is to say) the same seventh day of A in the year, &c. at C aforesaid, to his own proper use and commodity did convert and dispose, to the damage of the Plaintiff of forty pounds: And in delay of the administration of the Goods and Chattels aforesaid, &c. And in the end of the Count after: And thereof he bringeth suit, &c. And he sheweth forth here in Court the Letters administratory of the said Archbishop, with the commission, &c.

Case for the
false and ma-
licious indict-
ment of a man
for Barrettry,
M 14 of King
Charles in the
Kings Bench.

FG complains of I G in the custody of the Marshal, &c. for that (to wit) that whereas the aforesaid Plaintiff is a good, true, faithful, quiet, and peaceable leige-man of the said Lord the King that now is: And as such a good, true faithful, quiet, and peaceable leige-man of the said Lord the King that now is, and of the Lord James late King of England, from the time of his nativity hitherto he hath carried, behaved and governed himself: And to be of good name, fame, conversation and behaviour amongst all his Neighbours and other faithful Subjects of the said Lord the King that now is, and of the said late King J, to whom the same F was known, or conversed with by all the same time, he hath been known, called and reputed without any spot or note of Barretory, Quarrelling, Mangle, or Disturber of the peace of the said Lord the King that now is, he hath remained untouched, unspotted, & altogether unsuspected. By reason of which his said good name, fame, condition, conversation and behaviour aforesaid, the same Plaintiff had not only procured to himself the good will, favour and love of his neighbours, and other the faithful Subjects aforesaid: But also had gotten and obtained divers great gains, commodities and profits of the same his neighbours and the Subjects aforesaid, daily by buying, selling and lawfully bargaining, towards the great sustentation and maintenance of himself, the Plaintiff, and his family, and the most plentiful increase of his riches.

Heath was re-
moved from
the office of
Chief Justice,
and Finch
there placed.

Nevertheless the aforesaid Defendant not being ignorant of the premises, but maliciously and naughtily intending him the said Plaintiff in his said good name, fame, and credit, with which as aforesaid he was indued, to wound and detract, impair and blemish at the general Gaole delivery of the said Lord the King that now is, in the said County of Cornwall, holden at Launceston in the County aforesaid, such a day and year, before I F Knight, Chief Justice of the said Lord the King of the Bench, and Chancellor and Keeper of the great Seal of the Lady the Queen, and R H Knight, one of the Sergeants of the said Lord the King at Law, Justices of the same Lord the King then assigned for the general Gaole delivery of the same County, and to deliver the prisoners in the same then being: And also to hear and determine divers felonies, trespasses, and other misdeeds, in the same County perpetrated, to cause the same Plaintiff to be indicted of that, that he the same Plaintiff, such a day and year, and divers dayes and times, as well before as afterwards, at E aforesaid, in the County aforesaid, was and still is a common Barretor, and a daily Disturber of the peace of the said Lord the King, and divers stripes, contumelies, and discords, betwixt divers of the Subjects of the said Lord the King, then and there and elsewhere in the County aforesaid did unjustly move, procure, and exercise in contempt of the said Lord the King, and also against the form of divers Statutes in such case set forth and provided, and against the peace of the said Lord the King that now is, his Crown and Dignity. And did falsely and maliciously procure him the said Plaintiff, by that

that occasion, then and there to be taken, and in the Gaole of the said Lord the King there to be detained, until the same Plaintiff before the aforesaid I F and R H, Justices of the said Lord the King, assigned to deliver the Gaole aforesaid, in due manner, according to the law and custom of this Realm of England, such a day and year at L aforesaid was acquitted. By pretext whereof the same Plaintiff is not only greatly wounded and scandalized in his good name, fame, credit, and reputation aforesaid, wherewith he was formerly accepted and reputed, but also he was constrained and compelled to disburse and lay out divers sums of money for his purgation and discharge, and in the declaration and defence of his innocency concerning the premises in this behalf, to the damage of the said Plaintiff of three hundred pounds, &c.

The City of Exeter, ff. A S complaineth of T C, T T, I C, N C, and H T in the custody of the Marshal, &c. for that (to wit) that whereas one A P such a day and year at the C of E in the County of the City aforesaid, did account with the said Plaintiff of divers sums of money to the same Plaintiff by the aforesaid Defendant then due. And upon that account the aforesaid Defendant then and there was found in arrears to the same Plaintiff in seven pounds fifteen shillings and four pence. And where, as also the same Defendant to the same Plaintiff being so in arrears as aforesaid, afterwards, (that is to say) such a day and year abovesaid, in conjunction thereof did assume upon himself, and to the said Plaintiff then and there faithfully promised, that the same Defendant would well and faithfully pay and content the aforesaid seven pounds fifteen shillings and four pence to the said Plaintiff, when he should be thereunto required.

And whereas for forty years last past and more, a certain Court of the said Lord the King of record hath been held in the aforesaid City of Exeter, in the Guild-hall of the same City, before the Mayor and Bayliffs of the said City for the time being, by virtue of divers Letters patents to them thereof given and granted every munday in every week.

And whereas the said Mayor and Bayliffs of the City aforesaid, as aforesaid for the time being, by virtue of their office, from the time whereof the memory of men is yet to the contrary have had, and have been used and accustomed to have the custody of the prisoners at the Gaole or prison to the City aforesaid, as aforesaid belonging and appertaining, and to the same Gaole and prison lawfully committed or brought, or in the same being, or from thence, forth lawfully to be brought or committed by the same Mayor and Bayliffs in safe custody, by virtue of any plaints, or upon such plaints made or to be made from time to time in the Court of the City aforesaid, as aforesaid levied or affirmed, or to be levied or affirmed, until such prisoners from the same Gaole or prison by sufficient Main-prize, according to the custom of the City aforesaid, in that behalf to answer the Plaintiffs in such plaints specified, or otherwise in due manner shall be delivered or discharged. And whereas the said Plaintiff for the recovery of his damages by him, by occasion of the said Defendants non-payment of the aforesaid seven pounds fifteen shillings and four pence sustained, according to the said promise and assumption of the same Defendant thereof afterwards, (that is to say) such a day and year at the aforesaid Court of the said Lord the King, then holden at the aforesaid City of Exeter in the Guild-hall there, before, &c. then Mayor of the same City, and A B, T C, &c. then being Bailiffs of the same City, had levied his certain plaint against the aforesaid Defendant of a Plea of trespass upon the Case, and had purposed and intended to prosecute a suit therefore against the same Defendant in the same Court for the recovery of his damages aforesaid, which said plaint in the same Court still dependeth, not discontinued and determined.

Case for an escape upon a Plaintiff in a Corporation against the Mayor and Bayliffs of a Town, who have the custody of the prison.
Mich. 14. of King Charles in the Kings Bench.

The custom that the Mayor & Bayliffs for that time have used to be Keepers of the prison of the City,

And whereas the aforesaid, &c. from his aforesaid Office of Mayoralty aforesaid, and the aforesaid, &c. from their Offices of Bayliffs aforesaid afterwards, (that is to say) such a day & year were removed. And the aforesaid T T into the aforesaid Offices of Mayoralty of the City aforesaid, and T T, I C, N C, and H C, into the aforesaid Offices of Bayliffs of the same City afterwards, (that is to say) the same such a day and year were duly elected, made, and sworn.

And whereas the Mayor and Bayliffs of the same City, for the time being, by all the time aforesaid, have been Keepers, & by all the same time have had, and been accustomed to have the care and custody of a certain Goale or Prison of the Lord the King within the County of the same City, and the care and custody of all Prisoners to the same Goale or Prison brought or committed, or in the same being and detained, under any plaints, or by virtue of any plaints against such prisoners in the aforesaid Court levied or affirmed, until such prisoners from the same Goale or Prison by sufficient main-prize, to answer the Plaintiffs in such Plaints or otherwise in due manner, should be delivered.

And whereas the aforesaid Defendant afterwards (that is to say) such a day and year at the aforesaid Goale or Prison of the said Lord the King, in the aforesaid City of E then in the custody of the aforesaid T C then Mayor of the City aforesaid. And the aforesaid T T, I C, &c. then being Bayliffs of the same City, by virtue of a certain plaint against him the said Defendant, at the suit of one R S in the same Court, before the said T C then Mayor and the aforesaid T T, &c. then the Bayliffs aforesaid, levied and proccesse thereupon made, was brought and committed, and in the same detained. And being detained in the prison aforesaid, the same Defendant was chargeable and charged with the said plaint of the said Plaintiff against the same Defendant, in the said Court then formerly likewise levied, and in the same Court then and still depending as aforesaid. The aforesaid T C Mayor, and the said T T, &c. then Bayliffs of the City aforesaid, not being ignorant of the premises, endeavouring the same Plaintiff for the recovery of his damages against the aforesaid Defendant, by the occasion aforesaid, sustained, to frustrate, afterwards, (that is to say) the same such a day and year, the said I then under the custody of them the said T C, T T, &c. in the prison aforesaid, at the suit of the said Plaintiff, by virtue of the aforesaid plaint of the same Plaintiff, against him the said Defendant, in the Court aforesaid, so as aforesaid levied, detained, did suffer him the said Defendant, freely to go at large whither he would out of the same Prison, wherein, so as aforesaid, at the suit of the said Plaintiff, upon the aforesaid plaint of the same Plaintiff he was detained, and out of the custody of the said T C, T T, &c. at the aforesaid City of E, without the consent and against the will of the same Plaintiff, and without any bail or main-prize, for the aforesaid Defendant in the said plaint, at the suit of the said Plaintiff, in the same Court put in or taken, and the same Plaintiff of any damages by the aforesaid Defendant, for the non-performance of the promise and assumption aforesaid not being satisfied or paid. By which said putting of the aforesaid Defendant at large, the same Defendant, to places to the said Plaintiff altogether unknown, did elope himself, and by no proccesse afterwards hitherto can be taken or arrested, whereupon the Plaintiff saith, &c. damage twenty pounds, and thereupon he bringeth suit, &c.

Case against one for sowing of land when the same ought to lie fresh, whereby the Plaintiff lost his Common for two hundred Sheep in that time
M 14 of King Charles Roll.
M. Roll drew it.

Will. E D late of W in the County aforesaid Inn-keeper, was attached to answer F S the elder of a Plea, wherefore, whereas one E H Knight of the Bath, was seised of and in eighty three acres of Land meadow and pasture, with the appurtenances, in W V S and W in the County aforesaid.

And

And whereas within the same Parish of W aforesaid, there is, and from all the time whereof, &c. a certain great feild of arable Land, containing by estimation two thousand acres. And that within the same great feild there is, and from all the time aforesaid there was a certaine part of the same great feild distinguished by metes and bounds, called and known by the name of C bottome, lying on the East and South parts of the South-east side of a certain little hill there called C. And that the same part of the great feild called C bottome according to the usage and course of husbandry, in the same feild there used from the aforesaid time, whereof the memory of men is not to the contrary, was plowed and sown, and hath been accustomed in manner and forme following, (that is to say) the aforesaid part of the same great feild called C bottome for three years subsequent (that is to say) one after the other, hath been plowed and sown with coze, and that the same part of the aforesaid great feild called C bottome, every fourth year after the aforesaid three years next following, ought, and hath been accustomed to lye summer fallow and unsown from the time of the carrying away, and asportation of the coze in the same part of the said great feild called C bottome every third year untill seed time in Autumne in every fourth year for the turne next following, and that the same E H and all those whose estate the same E H in the Tenements aforesaid with the Appurtenances, had, from the time whereof, &c. have had, and have been used and accustomed to have for themselves, their farmers and Tenants, of the same Tenements with the Appurtenances, common of Pasture in the aforesaid part of the said great feild called C bottome, in W aforesaid, for two hundred sheepe, the fourth year, in which the same part of the said great feild called C bottome, ought to lye fresh and unsown (except in certaine arable Lands, and of the said eighty three acres being parcel, containing by estimation thirty acres of arable Land, and of the aforesaid part of the said great feild called C bottome being parcell, (that is to say) from the sixteenth day of M commonly called M in every fourth year untill seed time in Autumne next following, in the same fourth year, as to the Tenements aforesaid with the Appurtenances belonging & appertaining.

And the aforesaid E H of the Tenements aforesaid with the Appurtenances in forme aforesaid being seised, the same E H the last day of S in the second year of the Reign of the Lord the King that now is, at W aforesaid, did demise to the same F S the tenements aforesaid with the appurtenances, to have and hold to the said F S and his Assigns from the aforesaid last day of S in the second year above said, for and during the whole terme of ninety nine years from thence next following, fully to be compleat and ended, if R S F G and E S son of the said F S the elder, any of them or either of them should so long live, By virtue of which demise, the same F S into the Tenements aforesaid with the Appurtenances, did enter, and was thereof possessed, for and during all the term aforesaid, if the said R F and E his sons or any of them, or either of them should so long live.

And the said F S in fact saith, that the aforesaid part of the said great feild called C bottome, the twentieth day of N in the tenth year of the Reign of the said Lord the King that now is, and by the space of three years from thence next following, one after the other, with coze was sown, and that the coze there growing during the aforesaid three years after the aforesaid twentieth day of N in the tenth year above said subsequent, out of the aforesaid part of the said great feild called C bottome, was yearly taken and carried away, (that is to say) the seventh day of N in the thirteenth year of the Reigne of the said Lord the King that now is, and that from the time of the taking and carrying away of the same coze out of the aforesaid part of the great feild, called C bottome, in the thirteenth year above said, until the seed time of the aforesaid part of the same great feild called C bottome in Autumne, in the fourth year subsequent to the aforesaid three years, the same part of the said great

field called C bottom, according to the usage and course of husbandry of the same field, ought to lye fresh and unsown. And the same F S being possessed of the Common of pasture for two hundred Sheep for the term aforesaid, ought to have and enjoy Common of pasture for the said two hundred Sheep from the aforesaid sixteenth day of March, commonly called Midd. of the thirteenth year aforesaid, until the seed time of the same part of the said great field called C bottom in Autumn then next following, in the same part of the said great field called C bottom (except before excepted) according to the custom aforesaid in the same field used.

Nevertheless the aforesaid E D, not being ignorant of the premises, the twenty ninth day of March, in the fourteenth year of the reign of the said Lord the King that now is, at W aforesaid, being in the fourth year after the aforesaid three subsequent years, in which the same part of the said great field called C bottom, ought to lye fresh and unsown as is aforesaid, against the custom, usage, and course of husbandry aforesaid, two acres of arable land of him the said E D from the aforesaid part of the same great field called C bottom, being parcel lying between one acre of arable land in the tenure of one E B on the part of the North, and one peice of arable land, containing by estimation one acre and an half, in the Tenure of one T D on the part of the South, did plow and sow with Bease. By reason whereof the same F S could not have and enjoy his Common of pasture for the aforesaid two hundred Sheep in form aforesaid, as he ought in the aforesaid two acres of land of him the said E D of the aforesaid part of the said great field called C bottom parcel, in such ample manner and form, as formerly he had, and was used, and of right ought, and was accustomed to have, to the damage of him the said F of forty pounds, &c. And whereupon the same F by A B his Attorneys complaineth, &c.

Case upon a
deceit for
warranting
Wine to be
good when
it was corrup-
ted.

Cook lib. 4.

Geyrard and

Dickenson fo.

18. 5. H. 7.

50. 11. 9. 8. E.

4. 8. Clt.

Trotman, 143.

Case upon an

assumpsit, a-

gainst a hus-

band and his

wife upon the

assumpsit, of

the wife

whiles there

was sole who

was executrix,

upon a com-

munication,

betwixt the

Plaintiff and

the wife,

whiles there

was sole, in

consideration

that the Plain-

tiff would give

time to pay

the money,

shee would

pay, and for

non payment,

the action,

&c.

Mich. 7. of

King. Charles

Rel. 2216.

In the Kings Bench— for that (to wit) that whereas the Defendant such a day and year, at, &c. in consideration of twenty pounds of good and lawful money of England by the aforesaid Plaintiff to the said Defendant in hand paid, had bargained and sold to the Plaintiff one tun of Wine. And upon the same bargain and sale the aforesaid Defendant then and there did warrant the Wine aforesaid to be good and perfect. And in fact the same Plaintiff saith, that the Wine aforesaid, at the said time of the bargain and sale aforesaid made, was corrupted, sour, and hurtful for mans body, whereby the same Plaintiff upon the bargain, and sale, and warranty aforesaid, then and there, was very much deceived and defrauded, to the damage of the same Plaintiff, &c.

The City of Exeter, ss. I T late of E in the County of Devon. Gent. and A his Wife, were attached to answer R C of a Plea, wherefore, whereas one H A Gent. now deceased, late the Husband of the said A, in the life time of the same H had been indebted to the same R in seventy pounds of lawful money of England: And being sotherfore indebted, the aforesaid H afterwards (that is to say) the first day of January, in the tenth year of the reign of the Lord the King that now is, at the aforesaid City of E, in consideration thereof did assume upon himself, and to the same R then and there faithfully promised, that he the said H would well and faithfully pay and content the aforesaid seventy pounds to the same R: Which said seventy pounds, although the aforesaid H in his life time, by the same R had been often required to pay the same to the said R, he had not paid.

And the aforesaid H afterwards, (that is to say) the first day of December in the year of our Lord 1634. at the aforesaid City of Exeter, did make his Testament and last Will in writing. And by the same did constitute and ordain the same A, then his Wife, to be his Executrix. And afterwards (that

is to say) the same first day of December, in the year of our Lord 1634. abovesaid, at the aforesaid City of E died, the aforesaid seventy pounds to the said R not being paid, after the death of which said H (that is to say) the last day of February, in the year of our Lord, 1634. abovesaid, the said A, while she was sole, the aforesaid testament of the said H, her husband aforesaid, at the aforesaid City of E, in due manner did prove, and took upon her the burthen of the execution of the testament aforesaid.

And whereas also afterwards (that is to say) the sixteenth day of July, in the year of our Lord 1635. abovesaid, at the aforesaid City of E, a certain communication was had and moved between the same R, and the aforesaid A, of, and concerning the payment of the aforesaid seventy pounds, by the said A to the said R to be made, upon which said communication, so as aforesaid, then and there had, the aforesaid A, while she was sole afterwards, (that is to say) the aforesaid sixteenth day of July, in the year 1635. abovesaid, at the aforesaid City of E, in consideration that the same R, at the special instance and request of the aforesaid A, would give to the said A time to pay the aforesaid seventy pounds, within six moneths thence next ensuing, did assume upon her self, and to the said R, then and there faithfully promised, that she the said A would well and faithfully pay, and content the aforesaid seventy pounds to the same R within six moneths thence next ensuing. And although the same R, afterwards (that is to say) the aforesaid sixteenth day of July, in the year 1635. abovesaid, at the aforesaid special instance and request of the said A, at the aforesaid City of E, did give to the same A, while she was sole, time to pay to the said R the said seventy pounds, within six moneths thence next ensuing. Nevertheless, the aforesaid A, while she was sole, and the aforesaid I and A after the Espousals between them celebrated, although often required, the aforesaid seventy pounds, or any penny thereof, to the same R, according to the said promise and assumption of the said A to the same R, as aforesaid made, have not payed, nor either of them hath payed, or otherwise for the same have contented, or either of them hath contented but the same to him to pay, or in any wise for the same to content hitherto they have altogether denied, and both of them have denied, and still do deny, to the damage, &c.

NOrth. H. T. P. late of, &c. was attached to answer E G Knight, of a Case against a Copi holder of inheritance for levying of a fine, whereupon the land became pleadable at the Common Law. Trin. 14 of K. James Roll.

plea, wherefore, whereas the same E is seized of the Mannor of B parva in his Demesne, as of fee; which said Mannor, with the appurtenances, is and from the time whereof, &c. was of the ancient Demesne of the Crown of the Lord the King of England, and all the lands and tenements which of the same Mannor are holden, from all the time abovesaid were pleaded and pleadable in the Court of the same Mannor, and not elsewhere, according to the custome of that Mannor, from all the same time used in the same: Nevertheless the aforesaid T, not being ignorant of the premises, but endeavouring him the said E of the profit of the Mannor aforesaid, craftily and subtilly to deceive and defraud a certain fine was levied in the Court of the said Lord the King of the Bench here (that is to say) at Westminster, in the County of Middlesex, in the Wils of St. Michael, in the sixth year of the reign of the said Lord the King of England, France, and Ireland, and of Scotland, the 42. before EC, TW, PW, WD, and TE, then Justices of the same Lord the King of the Bench, and others the faithful Subjects of the said Lord the King then there present, between one RM and WM Plaintiffs, and the aforesaid TP defendant of seven messuages, &c. with the appurtenances in B parva in the County aforesaid; which said tenements, with the appurtenances, at the time of the levying of the fine aforesaid, and also from all the time abovesaid, until the day of the levying of the same fine, were tenements of the Mannor aforesaid holden, and in the Court of the same Mannor, by all the same time, according

according to the custome of that Mannor pleaded, and pleadable: By presence of which said fine, the same tenements, with the appurtenances, at the Common Law of this Realm of England, became pleaded, and pleadable, to the manifest perill of the disinherison of him the said E G, to the damage of the same Plaintiff sixty pounds, &c. And whereupon, &c.

The Defendant saith, that the lands are ancient demesne, and traverses without this, that, &c.

Action not, because he saith, that the Mannor aforesaid, with the appurtenances, is franck fee, and that all the lands and tenements which of the same Mannor are holden, are, and from the time whereof, &c. were franck fee, and pleaded, and pleadable, by writ of the said Lord the King at the Common Law: Without this, that the Mannor aforesaid, with the appurtenances, is of the ancient demesne of the Lord the King of England, that now is, as the aforesaid E hath above alledged. And this, &c. whereupon he prays, &c.

Be barred not, because he saith, that the Mannor aforesaid, with the appurtenances, is of the ancient demesne of the Crown of the Lord the King, that now is of England, as he above hath alledged: And this he is ready to verifie, as the Court of the Lord the King here shall consider, &c. And hereupon it is said by the Court here to the said E, that he have here the third of Michaelmas, the Record of the book of Doomsday, to testifie, that the Mannor aforesaid, with the appurtenances, is of the ancient demesne of the Crown of the Lord the King of England. And this upon the perill that shall fall thereon. And this he is ready, &c. The same day is given to the aforesaid T. P. here, &c.

Case, in consideration, that the Plaintiff would demise lands to the Defendant, fit to be tilled, he would till them, and render half the grain to the Plaintiff. Breach, that the Defendant did not till all the land fit to be tilled.

TB late of, &c. was attached to answer R D of a Plea, wherefore, where as the same R such a day and year was seised of one close of land, with the appurtenances called T in A, in the County of Devon, in his Demesne as of Freehold, for the then life of S, the wife of the aforesaid R, as in right of her the said S. Which said Close then was land fit and ready to be sown with grain (certain little pieces of the same Close being moyst and watery places only excepted) And the same R, so of the close aforesaid being seised, the aforesaid such a day and year, at A aforesaid, did demise to the aforesaid T all the part of the close aforesaid, which then was land fit and apt to be sown with grain for three whole years then next following, if the aforesaid R and S his wife should so long live, to be tilled and sowed with grain. And also all the pasture in that close, in the two first years of the same three years growing and renewing, (the first crop of the aforesaid little pieces of the said close, being moyst and watery places excepted to the same T) yielding and paying therefore to the same R yearly, during the same three years at harvest time, one moiety of all the grain in that year upon the close aforesaid growing. The aforesaid T, in consideration thereof, the same, such a day and year at D aforesaid, did assume upon himself, and to the same R then and there faithfully promised, that the said T, all the part of the close aforesaid, which then was land fit and apt to be sown with grain in every of the same three years, would sow with grain, and would render and deliver one moiety thereof to the said R, in every year of the said three years at harvest time. Peter the lesse, the aforesaid T, his said promise and assumption in no wise regarding, but endeavouring, and fraudulently intending the same R in this behalf craftily and subtilly to deceive and defraud, did not sow with grain, in the first year of the said three years, all the aforesaid part of the close aforesaid, which then before that time was fit and apt to be sown with grain, according to his promise and assumption aforesaid: But the same T in that year, did suffer two acres, parcel of the same part of that close, which then was land fit and apt to be sown with grain, to lie fresh, and not sown with any grain, whereby the same

same R did wholly lose all the profit and commodity, which he of one moiety of the gain, upon the same two acres growing, might have perceived and had, if with gain by the same T, according to his promise and assumption aforesaid they had in that year been sown, to the damage, &c.

EH complaineth of R D, in the custody of the Marshal, &c. for that (to wit) that whereas such a day and year at B, in the County aforesaid, a certain conference was had between him the said E. and the aforesaid R, for, and concerning two acres of land, parcel of a certain close of land, called W in B aforesaid, to be demised by the said E to the aforesaid R for tillage, for the term of four years, from thence next following. The aforesaid R afterwards (that is to say) such a day and year at B aforesaid, in consideration of fourteen shillings of lawful money of England, to the said R, by the same E, yearly, during the term aforesaid, to be paid, did assume upon himself, and to the same E, then and there faithfully promised, that he the said R would suffer the same E to have and hold the aforesaid two acres of land for tillage, for the aforesaid term of four years, and within the same time to sow the said two acres of land with what gain soever, as the said E pleased. And the said E in fact saith, that he yearly during the term aforesaid, did pay to the said R the aforesaid fourteen shillings, (that is to say) at B aforesaid: Nevertheless, the aforesaid R his said promise and assumption in no wise regarding, but endeavouring the same E, in this behalf, craftily and subtilly to deceive, and defraud, did not suffer the said E to have and hold the aforesaid two acres of land, for tillage, for the aforesaid term of four years: But he the said E, the aforesaid two acres of land to till, and the same with wheat to sow, within the same term (that is to say) such a day and year, and by the space of all the term aforesaid, from thence to come, at B aforesaid, did hinder, to the damage, &c.

Case, for that the Defendant, in consideration that the Plaintiff would pay the Def. 14. shillings yearly for four years, the Def. would demise two acres of land to tillage, the Plaintiff paid 14. shillings, &c. for four years, and the Defendant did not suffer the Plaintiff to till, &c. In the Kings Bench.

RB late of C, in the County aforesaid Baker, was attached to answer W Case against a lessee of land, who let the same to the Plaintiff, and promised enjoyment, yet the Plaintiff was ousted by the Def. the first lessee Well penned by Harvey Clarke.

RP a Plea, wherefore, whereas the aforesaid R, the 25 day of M. in the year of our Lord 1624. at W R, had demised to the same W, one close of land, called the E close, one other close of land, called, &c. and one other close of land, called, the hill close, with the appurtenances in W R aforesaid, to have, and to occupy to the same W, and his Assignes, for one whole year then next following. The aforesaid R afterwards (that is to say) the aforesaid 25. day of M. in the year of our Lord, 1624. aforesaid, at W R aforesaid, in consideration, that he the said W, then and there had assumed upon himself, and to the aforesaid R faithfully promised to pay to the same R eight shillings of lawful money of England, for the rent of the aforesaid three closes of land, for the aforesaid year, at the four termes of the year (that is to say) at the feast of the Nativity of St. John the Baptist, St. Michael the Arch-Angel, the Birth of our Lord, and the Annunciation of the blessed Virgin Mary, by equal portions, did assume upon himself, and to the said W then and there faithfully promised, that he the said W should quietly and peaceably have and enjoy the aforesaid three closes of land, with the appurtenances, during the aforesaid year, without any impediment or molestation of the aforesaid R, or of any other person or persons whatsoever. And the same W in fact saith, that he by virtue of the demise aforesaid, into the aforesaid three closes of land, with the appurtenances, did enter, and was thereof possessed: And the same W being so thereof possessed, after the aforesaid promise and assumption of the aforesaid R to the same W, as aforesaid made, (that is to say) the 20. day of A. in the 22. year of the Reign of the Lord Charles the King, that now is, one W N, claiming the aforesaid three closes of land, with the appurtenances, by virtue of a certain demise to him thereof made, by the aforesaid R, before the aforesaid demise of the same three closes of land,

land, with the appurtenances, by the aforesaid R, to the same W P, as aforesaid made, into the aforesaid three closes of land, with the appurtenances, upon the possession of him the said W P, thereof did enter, and the same W from his possession thereof did eject, put out, and move, contrary to the aforesaid assumption of the said R, to the damage of him the said W P of twenty pounds, &c. And whereupon, the same W P, by I T his Attorney complained, wherefore, whereas the aforesaid R, the 25. day of M. &c.

Case for indicting of one for robbery in the Kings High-way. Hill. 9. of King C.

BT, late of B, in the County aforesaid Weaver, was attached to answer **B**D of a Plea, wherefore, whereas the same I is a good, true, and faithful Liegeman of the Lord the King, that now is, and as a good, true, and faithful Liegeman of the same Lord the King, and his Progenitors, from the time of his birth, hitherto, he hath behaved and governed himself, and of good name, fame, conversation, and condition, as well amongst his neighbours, as other faithful Subjects of the said Lord the King, he hath been accounted, called, and reputed, and without any stain of theft, felony, robbery, or other hurtful crime, by all the aforesaid time, he hath remained and continued untouched.

Nevertheless, the aforesaid B, the premises well enough knowing, and endeavouring, and fraudulently intending to blemish him the said I in his good name, fame, and credit, and to bring the same I into scandal, infamy, and ignominy, with his neighbours, and other faithful Subjects of the said Lord the King, the 18. day of May, in the ninth year of the reign of the Lord the King, that now is, at Burrington aforesaid, did cause him the said I to be arrested, and then and there caused the same I to be brought before L P Baronet then, and still one of the Justices of the said Lord the King, that now is assigned to keep the peace in the aforesaid County of Devon, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the same County perpetrated, and then, and there, before the same Justice of Peace, did falsely and maliciously impose the crime of felony upon the same I, for the supposed felonious taking and carrying away of a certain purse, and of seventy shillings in moneys, numbered of him the said B, from the person of the same B, in the Kings High-way, at B aforesaid. Whereupon, the aforesaid L P Baronet, then and there, being one of the Justices of the said Lord the King, that now is, as aforesaid, assigned to keep the Peace in the County aforesaid, and one I C, &c. and also to hear and determine divers felonies, trespasses, and other misdemeanors in the same County perpetrated afterwards (that is to say) the twentieth day of May, in the ninth year aforesaid, at B aforesaid, at the complaint and prosecution of the same B T, did take a certain recognizance of the said I D, in a certain sum of money to the said Lord the King to be paid, with a condition, that the same I should personally appear at the then next Assizes, and general Goal-delivery, for the County aforesaid, to be holden, to answer of and upon the premises aforesaid, upon him by the aforesaid B, so as aforesaid imposed, and further, to do and receive what the Court of the said Lord the King then there of him should consider in the behalf: At which said Assizes, and general Goal-delivery, for the County aforesaid, held at the Castle of Exeter, in the County aforesaid, on Monday the fifth day of April, in the aforesaid ninth year of the reign of the said Lord the King, that now is, before T R Knight, then, and still Chief Justice assigned to hold the Pleas before the King himself, and I D Knight, then, and still one of the Barons of the Exchequer of the said Lord the King, at the aforesaid Assizes, and general Goal-delivery of prisoners, then at the aforesaid Castle of E, in the County aforesaid holden, being to be delivered. The same I D did personally appear, according to the form and effect of the condition of the Recognizance aforesaid. And upon the same appearance of him the said I D, then and there made, the aforesaid B, to that intent, to cause him the

said I D to be defamed, and as a thief and robber, to be Arraigned falsly and maliciously, and without any lawfull or just cause, did again impose the crime of felony upon him the said I; and did cause to be written a certain Bill of Indictment against the same I, and one W W in parchment, containing in it self this false feined and scandalous matter following (that is to say) Devon. ss. The Jurors for the Lord the King, upon their oath, do present, that I D, late of B, in the County aforesaid, H and William Ward, late of B, in the County aforesaid H, the seventeenth day of M, in the ninth year of the reign of our Lord Charles, by the grace of God of E, S, F, and I, King, Defendoz of the Faith, &c. with force and Arms, &c. at B aforesaid, in the County aforesaid, in the Kings highway, there in and upon one B T, in the peace of God, and of the said Lord the King, then and there being, did make an assault, and him the said B T then and there, in bootie fear of his life did put, and one purse of the value of one penny, and three pounds, and ten shillings in moneys, numbred, of the goods and chattels and moneys of the aforesaid B T, then and there in the Kings highway aforesaid found, then and there from the person of the same B T violently and feloniously did steal, take, and carry away, against the peace of the said Lord the King, that now is, his Crown and Dignity: And the aforesaid B, the said Bill of Indictment in form aforesaid made, and written, containing in it self the aforesaid false feined and scandalous matter, supposed to be perpetrated, to the Jurors of the said Lord the King of the great Inquest, to inquire for the said Lord the King, for the body of the County aforesaid, then and there charged; and swozn as a true Bill, maliciously then and there against him the said I did exhibit: And the said B, although he well knew all and singular the premises in the said Bill of Indictment aforesaid, above contained, to have been false, feined, scandalous, and contrary to truth, then and there being upon the holy Gospell of God, in due manner, swozn to give true evidences of and upon the aforesaid Bill of Indictment; to the said Jurors of the aforesaid great Inquest, then and there, falsly and maliciously upon his oath aforesaid to the same Jurors, did avouch and affirm the matter aforesaid, in the said Bill of Indictment, so as aforesaid written and contained, to have been true, where indeed the whole matter aforesaid, in the same Bill of Indictment, as aforesaid contained, was false, and contrary to truth, and by the said B falsly and maliciously was contrived, and devised, to trouble and defame the said I D: And after that the same B then and there had given evidences upon the Bill aforesaid, to the same Jurors of the grand Inquest aforesaid: The same Jurors then and there to the aforesaid Justices of Assizes, and general Goal-delivery, did give their answer, that they the said Jurors were of the same matter in that Bill as is premised, contained, altogether ignorant, by pretence whereof, the said I is not only grievously wounded in his good name, fame, and estimation aforesaid, but also he is many wayes hindered in doing of divers of his lawfull and honest businesses: And the same I was constrained and compelled to expend and disburse great summes of money, in and about his discharge and purgation, of and from the supposed robbery and felony aforesaid, upon him as aforesaid imposed, and for the manifestation and declaration of his innocency in that behalf, to the damage of him the said I of one hundred pounds, &c. And whereupon the same I by F A his Attorney complaineth; wherefore, whereas, &c.

Devon. Be it remembred, that at another time (that is to say) in the Term of the holy Trinity last past, befoze the Lord the King at Westminster, came S W, by I T his Attorney, and brought here in light. Case for stopping up of lights. Court of the said Lord the King, then there his certaine Bill against

R S, in the custody of the Parthall, &c. of a Plea of trespass upon the Case: And there are pledges of prosecuting (that is to say) I D, and R R, which said Bill followeth in these words, Devon, ff. S W complaineth of R S, in the custody of the Parthall of the M, &c. for that (to wit) that whereas the aforesaid S W the twenty eighth day of M. in the eighth year of the reign of the Lord Charles, now King of E, &c. at the Parish of T, in the County aforesaid, had been possessed, and continually from thence hitherto, hath been possessed, and still is possessed of an ancient messuage, with the appurtenances, of him the said S W, scituate in the Parish of T aforesaid, for the term of divers years, then, and still to come, and enduring. And whereas also the same R S, the said twenty eighth day of March, in the eighth year abovesaid, at the aforesaid Parish of T, in the County aforesaid, was possessed, and continually from thence, untill the day of the exhibiting of this Bill; hath been possessed, and still is possessed of one other messuage, and of one yard, or void piece of land, of him the said R S, scituate, lying, and being in the said Parish of T aforesaid, in the County aforesaid, next and neer adjacent to the aforesaid messuage of the said S W, on the South-side of the said messuage of the said S W. And whereas also the same twenty eighth day of M, in the eighth year abovesaid, at the aforesaid Parish of T, in the County aforesaid, from the time whereof, the memory of men is not to the contrary, there were two ancient windows or lights in and upon the aforesaid South-side of the aforesaid messuage of him the said S W, and parcell of the said messuage of the same S, against the aforesaid messuage and yard, or void piece of land of the said R S. Of which said two windows or lights, the first of the same contained in breadth one foot, and in height four feet and an half: the second of the same windows or lights, contained in breadth four feet, and in height three feet: By which said windows, the light into the said messuage of the said S W, was brought, and by all the time, &c. was accustomed, and ought to be brought in. And the same S had, and enjoyed, and was accustomed to have and enjoy, great, wholesome, and necessary easements, and commodities, by reason of the open ayr, and light shining and entering in and by the windows, or lights aforesaid, into his said messuage.

And the said R S, of his aforesaid messuage and yard, or void piece of land, so as aforesaid being possessed: And the same S W of his messuage, windows, or commodities aforesaid, so as aforesaid, being likewise possessed: The aforesaid R not being ignorant of the premises, but those well enough knowing, of his malevolent minde, naughtily and maliciously intending utterly to deprive the aforesaid S W of all the easements and commodities of the aforesaid severall windows, or lights of the said S, of his said messuage, and the same messuage of him the said S in horrid darkness to obstruct, and stop up, the aforesaid twenty eighth day of M, in the abovesaid eighth year of the reign of the said Lord the King, that now is, at the aforesaid Parish of T, in the County aforesaid, did build a certain new Edifice, or house of certain boards and posts, built, and edified, in and upon the aforesaid yard or piece of land, beside, & neer to the aforesaid windows or lights of the aforesaid messuage of the said S, and then and there obscured and darkned the same, whereby the same S W hath utterly lost, not only all the commodities and easements of the aforesaid two severall windows or lights, but also the help and salubrity of the ayr, and light, in and by the same severall windows and lights, as aforesaid, shining and entring from the aforesaid 28. day of M, in the eighth year abovesaid, untill the day of the exhibiting of this Bill (that is to say) the ninth day of O in the eighth year abovesaid. And the greatest part of the aforesaid messuage of the said S W by occasion of the premises, with great darkness hath been and still is obscured, whereupon the same S saith, that he is the

the worse, and hath damage to the value of ten pounds, and thereupon he bringeth suit, &c.
Not guilty pleaded.

IR late of P in the County of C Gent. and A his wife, Executrix of the Testament of I C, were attached to answer T C Gent. one of the Attorneys of the Court of the Lord the King of the Bench, of a Plea, wherefore, whereas the aforesaid I C in his life time, the twentieth day of A in the two and twentieth year of the reign of the Lord I late King of England, at London in the parish, &c. had accounted with the same T of divers sums of money, by the same T for the said I C at his request laid out and disbursed. And upon that account the aforesaid I C was found in arrears to him the said T in eighty one shillings and five pence. And so being therefore indebted, the aforesaid I C, in consideration thereof, did assume upon himself, and to the said T when and there faithfully promised to pay to the same T the aforesaid eighty one shillings and five pence when he had been thereunto required. And the aforesaid T C of forty one shillings and five pence thereof to the said T afterwards had in his life time satisfied.

Nevertheless the aforesaid I C in his life time, or the said A while she was alive, or the aforesaid I R and A, after the espousals between them celebrated, the aforesaid promise and assumption of the said I C, as to forty shillings, residue of the aforesaid eighty one shillings and five pence, in no wise regarding, but endeavouring and fraudulently intending him the said T of the same forty shillings craftily and subtilly to deceive and defraud, have not paid the same forty shillings to the said T, although hereunto the aforesaid I C in his life time, afterwards (that is to say) the twelfth day of February, in the third year of the reign of the said Lord the King that now is, at L in the Parish and Ward aforesaid, by him the said T was required, but those to him to pay he hath denied. And the aforesaid I R and A the same to the said T will to pay deny, to the damage of him the said T of ten pounds, &c. and whereupon, &c.

ID late of C in the County aforesaid the younger Gent. was attached to answer N S of a Plea, wherefore, whereas a certain conference was had and moved between the same N, and the aforesaid I and some W S and L B, of and concerning the procuring of twenty pounds of lawful money of England to the same N W and L by one I D father of the aforesaid I D the younger to be lent. And whereas also betwixt the same N W, and L, and the aforesaid I D the younger, with the assent of the said I D the elder, it was concorced and agreed, that the aforesaid I D the elder should lend to the said N W, and L twenty pounds of lawful money of England. And that the same N W and L should jointly and severally become bounden to the aforesaid I D the elder, by their writing obligatory, in the sum of forty pounds, with condition to the same writing obligatory subscribed, as well for the payment of the aforesaid twenty pounds, as for the payment of twenty shillings of lawful money of England, for the deferring and giving day of payment of the aforesaid twenty pounds to be paid. And further, that they the said N W and L should deliver the aforesaid writing in form aforesaid to be made as their deed, so the said I D the younger, to the use of the said I D the elder.

Whereupon the aforesaid N W and L the aforesaid writing obligatory, bearing date the ninth day of J, in the seventeenth year of the reign of the Lord the King that now is of England, &c. in form as aforesaid, did cause to be written, with condition to the same writing subscribed, for the payment of twenty one pounds, of lawful money of England, to the said I D the elder, upon the tenth day of Ja, then next following, and their seals thereunto they

The City of Exeter.

Case founded upon a conference had for the procuring of 20 li. to be lent to the Plaintiff and others upon their bond, &c. and upon an agreement thereupon in part performed by the parties and others, and upon a second agreement made, and not performed, whereupon arises the action for the not delivering of so much wares as should be well worth 20 li. to the Plaintiff on the mor-

did put ready upon the receipt of the aforesaid twenty pounds, to deliver the same writing as their deed, as it was above agreed. At which said time (that is to say) the aforesaid ninth day of July, in the seventeenth year abovesaid, for that the aforesaid I D the younger, according to the concord and agreement aforesaid, had not the aforesaid twenty pounds ready to be delivered to the same N W and L. It was further concordeed and agreed between the same N W and L, and the said I D the younger, that the aforesaid writing, in form as aforesaid made, should remain in the hands of the aforesaid N, as a Schedule safely to be kept until the same N of the aforesaid twenty pounds should be fully satisfied. And that upon the satisfaction to the same N of the aforesaid twenty pounds given, the said N should deliver the writing aforesaid, in form as aforesaid made, in the name of him the said N, and of the said W and L, and for the same N W and L, as the deed of them the said N W, and L, to the aforesaid I D the younger, to the use of the said I D the elder. The aforesaid I D the younger, in consideration, that the said N at the special instance and request of the same I D the younger, would deliver the aforesaid writing, in form as aforesaid made, as the deed of him the said N and of the aforesaid W and L to the aforesaid I D the younger, to the use of the said I D the elder afterwards, (that is to say) the sixteenth day of July, in the seventeenth year abovesaid, at the aforesaid City of E, did assume upon himself and to the same N then and there faithfully promised, that he the said I would well and faithfully give and deliver so much wares as should be well worth twenty pounds to the said N on the morrow then next following.

And the same N in fact saith, that he the said N for himself and the said W and L, to the great discommodity, and the great damage of the same N, by reason of the laying out and disbursing of divers sums of moneys for the same W and L, at the special instance and request of the aforesaid I D the younger afterwards (that is to say) the aforesaid sixteenth day of July, in the seventeenth year abovesaid, at the aforesaid City of E, did deliver the aforesaid writing in form as aforesaid made and sealed, as the deed of the same N W and L, to the said I D the younger, to the use of the said I D the elder.

And the same N in fact saith, that the aforesaid I D the younger, his said promise and assumption in no wise regarding, but endeavouring and fraudulently intending the same N in this behalf craftily and subtilly to deceive and defraud, hath not given and delivered so much wares as should be well worth twenty pounds to the said N on the aforesaid morrow, being the seventeenth day of July, in the seventeenth year abovesaid, according to his promise and assumption aforesaid.

And the same N further in fact saith, that he the said N did pay to the aforesaid I D the elder, the said twenty one pounds, in the condition of the aforesaid writing obligatory above as aforesaid mentioned, upon the aforesaid tenth day of July, in the same condition specified, according to the form and effect of that condition, to the damage of him the said N of forty pounds, &c. and whereupon the same N by G M his Attorney complaineth, wherefore, whereas, &c.

Case for the
vehement labouring of a
Mare, whereby
she died.
T. 15 of King
Ja Roll 559.
Raynes against
Moxam.

That whereas the aforesaid M such a day and year at C, in consideration that the same Plaintiff at the special instance and request of the Defendant had delivered at M the Mare of the same Plaintiff, to till and plow certain Lands of the said Defendant in P, in and for two days then next following, did assume upon himself, that he the said Defendant would safely and surely deliver the same Mare to the said Plaintiff after the end of the aforesaid two days upon request.

The aforesaid Defendant endeavouring, &c. him the said Plaintiff many waies to grieve, did so excessively and inordinately labour and weary the said Mare by the aforesaid two days, so that by that

that excessive labouring the Mare aforesaid died, to the damage, &c.

The Defendant pleaded, that the Mare aforesaid died of divers infirmities, without this, that the said Defendant did so excessively and inordinately labour, &c. And issue thereupon.

And after verdict it was moved in arrest of Judgment, that the Count is insufficient, for that that no place was mentioned in the Count where the Defendant did labour the same Mare, which was the principal matter of the issue, and by the Court the Judgment was arrested.

Note.

Mr. A. And whereupon the same Plaintiff complaineth, that whereas the said Plaintiff the thirtieth day of April, in the sixteenth year of King Ja. at L. had delivered to the aforesaid Def. a certaine Gelding of the same Plaintiff, to ride from the Town of L in the County of S, unto B in the County of S. The aforesaid Defendant the same Gelding so heavily did load, and the same so swiftly, harmfully, and inordinately the aforesaid thirtieth day of April, in the sixteenth year aforesaid, at L aforesaid, did ride, that the aforesaid Gelding, of the price of ten pounds, by the loading and riding aforesaid died, to the damage, &c. of forty pounds, and thereof he bringeth suit, &c.

Case for the heavy loading and vehement riding of a gelding, so that he died. Trin. 16. of K. James. Roll. 805. C. Brownlow betwixt Tong and Dapper.

Regist. 106. tit. Trespasse.

Somer. H. T. L. late of, &c. R. Abbot of the Monastery of St. A near to the Town of Bristol, of a Plea, wherefore, whereas the same Abbot is seised of a certain passage at B in his demesne as of fee, as in right of his Monastery aforesaid, to convey and carry whatsoever Subjects of the said Lord the King, and their Horses, and all other necessities whatsoever, over a certain water, called Aven-water, in his own ferry boat, taking of every person for his passage one farthing, and for every Horse one farthing, and for other necessities whatsoever, according to the quantity of the same.

Case brought by a Freeholder of a Ferry for carrying Passengers by another without right, whereby, &c. Pas. 17. H. 8. Roll 524.

Nevertheless the aforesaid T endeavouring the aforesaid Abbot of the passage aforesaid many wayes to hurt, deprive and ver, very many persons over the water aforesaid at B aforesaid in his own ferry boat did convey and carry. By occasion of which, the same Abbot is many wayes damaged and vered, to the damage of the same Abbot of forty pounds, &c. And whereupon the same Plaintiff by A B his Attorney, &c. as above unsuited.

Nevertheless the aforesaid Defendant the twelfth day of September, in the sixteenth year of the reign of the Lord the King that now is, endeavouring the said Plaintiff of the passage aforesaid many wayes to hurt, deprive and ver, very many persons (that is to say) N B with divers persons, &c. to the number of one hundred persons, over the water aforesaid, at B in his own ferry boat did convey and carry. By occasion of which the same Abbot is many wayes damaged and vered, to the damage, &c. And thereof he bringeth suit, &c.

Hill. quinto Jac. rot. 613. Durant against Salter. A Declaration upon an assumpsit to forbear him pro paululo tempore adjudged male, Quare the Report, because it is uncertain, such H 18. Jac. rot. 536. c. Gulton. Mapes against Sieley, Judgment for the Plaintiff by all upon a Judgment by verdict. Pas. 36. Eliz. rot. 488. in the Kings Bench, Sackford against Phillipps.

Paulum tempus a little or short time.

Death shall
not abate a
Writ in tref-
pass upon the
Case.

M 15 and 16 Eliz. rot. 1559. in trefpasse upon the case brought against
M 15 and 16. Eliz. rot. 1648. M 23 and 24. Eliz. rot. 1800 & ibidem 1110.

H 10 Ja. rot. 1942. An Action upon the Case brought by the Mayor and
Commonalty of the City of London, against J S for infringing upon the
privilege of the City of London, for measuring of Sea-bat at Grave-
end.

Case. Trin. 19 Ja. rot. 1825. By a Copi-holder for stopping of
way by prescription.

T Rin. 1 Ja. rot. 1767. H 1 Ja. rot. 1252. Case in deceit brought against
Goldsmith for falsely selling a Sapphire for a Diamond.

T Rin. 19 Ja. rot. 3087 and 702.

T Rin. 13. Ja. rot. 1625.

T Rin. 42. Eliz. rot. 1752.

M 12 Ja. rot. 829. Pas. 12. Ja. rot. 534.

T Rin. 27. Eliz. rot. 406.

H 4. Ja. rot. 1842. Between Dyer and Larkit Case for deceit for selling
rotten Herrings with warranty.

T Rin. 8. Ja. rot. 767. The like for warranting bad sheep.

T Rin. 6 J. rot. 1450. Between B and S Case in the like case.

M 8 Ja. rot. 1358.

Case in deceit,
for that the
Defendant
had sold to
the Plaintiff
a Gelding
which was
not his own
Gelding,
whereby a
stranger, the
owner, takes
the Gelding
out of the

Suff. ff. A I late of &c. was attached to answer L M of a plea, where-
fore, whereas such a day and year at N a certain conference was had be-
tween the same Plaintiff and the said Defendant, of a certain Gelding of
the said Defendant to be bought, which said Defendant then and there did
affirm to the same Plaintiff, that the Gelding aforesaid then was the proper
Gelding of him the said Defendant. By reason of which affirmation, the
same Plaintiff then and there did buy the Gelding aforesaid of the said De-
fendant for fifty three shillings and four pence, to the said Defendant by the
same Plaintiff then and there given and paid.

And the same Plaintiff in fact saith, That the aforesaid Gelding, at the
aforesaid time of the same affirmation and buying was not the proper Gel-
ding of the Plaintiff's possession. Trin. 37. Eliz. rot. 1333.

ing of the same Defendant, but the gelding aforesaid, at the time of the same affirmation and buying, was the gelding of one D, and to him the said D of right did belong and appertain: And that the said Dafterwards (that is to say) such a day and year at N aforesaid, did take, and lead away the aforesaid gelding, as the proper gelding of him the said D, out of the hands and possession of the said Plaintiff, whereby the same Plaintiff, by occasion of the premises, is many waies impoverished, and made woyle, not only in his goods and substance, but also the same Plaintiff was constrained and compelled to disburse, pay, and expend divers sums of money for his redemption in this behalf to be had, to the damage of him the said Plaintiff of 40. l. &c.

P. 19. 72. Rot. 683.
Touil against the wingfield, such a Count, and a stranger sued a Replevin of a horse, which was replevied by the Sheriff, and in issue, not guilty.

For ss. R W, late of Darnton, in the County of Durham, Peoman, was attached to answer G F Widow, Administratrix of the goods and chattels which were of R F, who dyed intestate, &c. of a Plea, wherefore, whereas the aforesaid R F in his life time, the first day of I, in the year, &c. at York Castle, had put to the said R W, a certain horse of him the said R F, to be depastured by the said R W, as long as it should please both the said parties. Nevertheless, the aforesaid R W so evilly and inordinately did use and labour the horse aforesaid, that the same horse, of the price of twenty pounds, at York Castle aforesaid dyed, to the damage of her the said G of forty pounds, and in delay of the administration of the goods and chattels aforesaid, &c. And whereupon the same G, to whom the administration of the goods and chattels, which were of the aforesaid R F, at the time of his death, by Matthew, by the Divine Providence Archbishop of York, Primate and Metropolitan of England, the twenty eighth day of O. in the year of our Lord 1603. at York Castle aforesaid, after the death of the said R F was committed; by I F her Attorney complaineth, that whereas the aforesaid R F in his life time, the first day of June, in the first year of the reign of the said Lord the King, that now is, at York Castle, had put to the said R W a certain horse of him the said R F, to be depastured by the said R W, as long as it should please both the said parties. Nevertheless, the aforesaid R W, the sixth day of June, in the fourth year of the reign of the Lord the King, that now is, at S so evilly and inordinately did use and labour the aforesaid horse, that the same horse of the price, &c. at York Castle aforesaid dyed, to the damage of her the said G of forty pounds, and in delay of the Administration of the goods and chattels aforesaid, and thereof she bringeth suit, &c. And she sheweth forth here in Court the letters Administratoz of the said Archbishop, which the Commission of the Administration aforesaid, to the same Grace, in form aforesaid, do witness, &c.

Case for the evil and extraordinary abusing of a horse, brought against him that had him to depasture, by an Administratrix.
M. 7. 14. Rot. 1027.
Brownlowe. Count.

The shewing of the letters of Administration.

The Defendant pleaded, Not Guilty. Po Audgment, q.

Did enter, &c. And one R I, within the Hundred aforesaid, by vertue of a certain precept to him directed, by I S of Brympton, Esquire, then Sheriff of your County, did arrest, take, imprison, and so the same precept was executed within the Hundred aforesaid, and the liberty of the said Bishop, to the great damage of the same Bishop, and the infringing of his liberty aforesaid, to the damage, &c. Judgment for the Plaintiff by nil die. damage seven pounds, and twenty two shillings costs. And the aforesaid Defendant in mercy, &c. See the like: Trin. 20. Eliz. betweene the same Plaintiff and Rodes.

Mercy.

Trin. 40. Eliz. Roll. 1011. The City of York, between the Mayor and Commonalty of the City of York Plaintiff, and Peninton, &c. such a Count H. 8. 1a. Roll. 420. between the Bayliffs, &c. the like.

Suff.

Case in Tro-
ver for a hawk
reclaimed.

Pl. 31. Eliz.
Pas. 730.

Suff. ff. Trespass upon the case in Trover, &c. That whereas the same Plaintiff was possessed of a Tassel of a Gol-hawk, reclaimer. & domestic (in English) reclaimed, of the price, &c. and of two hawks bells to the value, &c. as of his own proper goods and chattels.

The Defendant pleaded specially, that he took it in his Dove-house, and delivered it to the Sheriff, and did traverse the knowing of the same to belong to the Plaintiff.

Trin 6. 1a. Roll. 1501. Trover brought by the Husband for money lost by his Wife at Cards. Judgment for the Plaintiff.

Case for Words.

Case brought
by an Attor-
ney for words,
where the
oath of his of-
fice is recited.
Trin. 3. of King
Charles.
Roll.

The oath of an
Attorney reci-
ted.

WL. Gent. was attached by a Writ of the Lord the King of writ
ledge, forth of the Court here issuing, to answer I P Gent. one of the
Attorneys of the Court of the Lord the King, of the Bench here, according
to the liberties and privileges, &c. of a Plea of trespass upon the case, &c.
And whereupon the same H in his own person complaineth, wherefore, where
as the same H is a good, true, and faithful Subject of the said Lord the King,
that now is, and as a good, true, and faithful Subject of the said Lord the King,
and of the Lord James, late King of England, and Father of the same Lord
the King that now is, from the time of his birth hitherto, he hath behaved
demeaned, and governed himself, and of good name, fame, conversation, and
reputation, as well amongst honorable and venerable persons, as other the
Subjects of the said Lord the King, that now is, and of the said late King, in
which the said H had been known, and with whom the same H in any wise
had fellowship, by all the time aforesaid, alwayes he had been held, called,
and reputed. And also, as a faithful and honest Subject, of the said Lord the
King, that now is, without any blemish of any felony, treason, falsity, covary,
deceit, or any other hurtful crime, or the suspicion of the same, hath hitherto
remained and continued, unhurt, untouched, and unspotted. And whereas
also the same H, by reason of his honest conversation aforesaid, and his know-
ledge in ordering and prosecuting businesses at the Common Law, in the
Term of the holy Trinity, in the seventh year of the reign of the said Lord
James, late King of England, was elected and constituted one of the Attor-
neys of the Court of the said Lord the King, that now is, and of the said late
King of England, of the Bench: And from thence hitherto, he hath been,
and continued one of the Attorneys of the Court of the Bench, and at the
time of his admission to the aforesaid office, did take his oath in the same
Court of the Bench, upon the holy Evangelist of God, that he no falsity
or deceit would commit, nor to any one to be committed, would consent,
within the aforesaid Court of the Bench aforesaid: And if he should know
any committed, he should give notice thereof to the Lord Chief Justice of
the same Lord the King, of the Bench aforesaid, or to the other Justices of
the same Bench, that reformation thereof might be made, that he should de-
lay no suit for the cause of lucre, or malice, he should increase no fees, but
should be content with the ancient and accustomed fees, he should not plead
forrein Pleas, and he should not prosecute forrein suits unjustly, to another
man his damage, but such as should be agreeable to order of Law, and his
conscience, that he should seal all Process by him forth of the Court aforesaid
said prosecuted, with the seal of the same Court, or should have care to satis-
fie the said Lord the King, or the said Chief Justice for the same. And
whereas

whereas also the same H, by all the time aforesaid, that he, as aforesaid, had
 been one of the Attorneys of the said Court of the Bench aforesaid, well
 and according to the rule of his said oath, in all things did govern and behave
 himself: And all manner of businesses in the Court of the Lord the King,
 and elsewhere for his Clients, well, honestly, diligently, and faithfully, as
 their Attorney, to his power and knowledge, by all the time aforesaid, with-
 out any negligence, pravity, falsity, deceit, or guile whatsoever, he did do and
 dispatch, by pretence whereof, the same H, as an Attorney of the said Court
 of the said Lord the King of the Bench aforesaid, divers great gains and
 profits of divers of the liege people of the said Lord the King his Clients, in
 the Court of the same Lord the King at Westminster, in acting and prosecu-
 ting their causes, by all the time aforesaid, for the sustentation of him the said
 H & his whole family, justly & honestly he did gain and get. Nevertheless the
 aforesaid W well knowing the premises, & endeavouring not only to hurt, detract,
 deprave, & blemish, and utterly destroy the good name, fame, state, opinion,
 and estimation of him the said H, but also to bring him the said H into hatred,
 scandal, reproach, evil opinion, infamy, displeasure, and distrust amongst all,
 as well honorable as venerable men, and the Clients, whose Attorney the same
 H, in the Bench aforesaid is, such a day and year at the City of Exeter, having
 communication of the same H with divers liege people of the said Lord the
 King, that now is, of his office of an Attorney, and of his profession of an At-
 torney, in prosecuting and defending the causes and matters of his Clients in
 the aforesaid Court of the Bench aforesaid, then and there in the presence and
 hearing of very many credible subjects of the said Lord the King, that now is,
 and his Clients, then and there being and hearing these false, feigned, and
 scandalous, lying, opprobrious, and malicious words to the same H, and of
 the same H, then and still being one of the Attorneys of the aforesaid Court
 of the said Lord the King, of the Bench aforesaid, did say, affirm, speak, and
 publish (that is to say) Thou (the same H meaning) art a cheating knave.
 Then the same H likewise meaning) hast cozened me (the aforesaid W mean-
 ing) of 24 l. a year. Thou (the same H meaning) didst join with Sir R, G and
 Sir, I M, to cozen my father (one A L Esquire, father of the said W of 800. l. or
 900 l. Thou (the same H again meaning) art a rogue, and hast deserved to
 be hanged, and thou (the same H likewise meaning) wast brought to the Gal-
 lows to H Dooz (a certain Dooz lying in the Parish of H, in the County of
 Devon meaning) Thou (the same H meaning) hast cozened my father (the
 aforesaid A L, father of the said W again meaning) And my brothers (one N
 L, and I L Esquire, brothers of the said W meaning) of many hundred pounds,
 by the pretence of the saying, speaking, and publishing of which said feigned,
 false, scandalous, and opprobrious words, the same H is not only greatly hurt
 and depraved in his good name, fame, credit, and estimation aforesaid, where-
 with he was formerly indued, and in performing of his lawful and honest bu-
 sineses, he is greatly hurt and hindered, but also he is now brought into so
 great scandal, infamy, and reproach amongst his Clients, and other the liege
 people of the said Lord the King, that now is, that divers of his friends and
 Clients, whose causes the same H, as their Attorney in the aforesaid Court of
 the Bench aforesaid, before the saying and speaking of the aforesaid words,
 did prosecute and defend, have utterly refused him the said H after the aforesaid
 saying and speaking of the said false, feigned, and scandalous words, to be
 their Attorney in the same Court of the Bench here, to prosecute or defend
 their causes there: And they have withdrawn themselves from the company
 of him the said H, and they have utterly refused, and still do refuse in any wise
 to deal, or have fellowship with the same H, after the speaking and publishing
 of the same false and scandalous words, to the damage of him the said H of one
 thousand pounds, &c. And wherenpon the same H in his own person, &c.

Case by an
Attorney for
words (i. e.) he
is no Attorney
for he is put
out of the Roll
and put over
the perch, and
must not pra-
ctise more
as an Attorney
or Solicitor.
T 10 of King
Charles.

TM was attached by a Writ of the Lord the King of privilege forth of the Court here issuing, to answer E O Gent. one of the Attorneys of the Court of the Lord the King of the Bench here, according to the liberties and privileges of the same Court, for such Attorneys and other Ministers of the same Bench, time out of mind used and approved in the same, of a plea of trespass upon the case, &c. And whereupon the same E in his proper person complained, wherefore. whereas the same E is a good, true, faithful, and honest liege-man of the Lord the King that now is, and hath been of good name, fame, credit, condition, and conversation, and such a good, true, faithful, and honest subject of the said Lord the King that now is, from the time of his birth hitherto, without any crime of falsity, guile, deceit, or the blemish of any other hurtful crime, he hath been, and still is, unhurt and untouched: and so, as well amongst his neighbors, as other faithful peers and venerable subjects of the said Lord the King, he hath been accounted, known, called, and reputed. And whereas also the same E by the space of two years now last past and more, had been, and still is, one of the Attorneys of the Court of the said Lord the King of the Bench as aforesaid, and well, honestly, and faithfully, in the office aforesaid, according to the duty of his oath in that behalf taken, he hath carried and behaved himself: And by reason thereof, the same E divers pleas, actions, and suits in the same Court of the Bench here for divers peers of this Realm of Eng. and other faithful and venerable subjects of the said Lord the King that now is, as their Attorney in the Court of the Bench aforesaid, by the same time he had prosecuted and defended, and still doth prosecute and defend: whereby, and by reason of the faithful exercise of his office of an Attorney, the same E hath gained and got divers great gains and profits, and divers sums of money, for the Attorneys fees of him the said E, for the prosecution and defence of the same actions and suits. Nevertheless the aforesaid T not being ignorant of the premises, but endeavouring the same E unduly to grieve and to hurt, defraud, blemish, and deprave the good name, fame, credit, and repute of him the said E, with the peers of this Realm of Engl. and other honourable and faithful subjects of the said Lord the King that now is, whose pleas, actions, and suits the same E, as their Attorney in the Court of the same Lord the King of the Bench aforesaid, had prosecuted and defended, and still doth prosecute and defend, and to bring him into great scandal, infamy, reproach, and ignominy, the first day of J, in the ninth year of the reign of the Lord the King that now is, at the Castle of York having communication with divers subjects of the said Lord the King that now is, of the said E, and of his office of an Attorney aforesaid, then and there certain false, feigned, and scandalous words of the same E, then and still being as aforesaid, one of the Attorneys of the Court of the said Lord the King of the Bench aforesaid, in the presence and hearing of very many liege-people of the said L. the K. that now is openly and publickly did say, relate, publish, & speak in these words following, that is to say, he (the said E meaning) is no Attorney, for he (the same E likewise meaning) is put out of the Roll, and put over the perch, & must neither practise as an Attor. or Solic. in 20: By the presence of the saying, relating, publishing, & speaking, of which said false and scandalous words the same E is not only greatly wounded in his good name, fame, credit, & repute, wherewith he was before that time indued, but also divers noble men of this Realm of Eng. & honourable persons, & other faithful subjects of the said L. the K. that now is, whose pleas, actions, & suits the same E, as their Attor. in the aforesaid Court of the said L. the K. of the Bench, had prosecuted and defended, & still doth prosecute & defend, from the company & familiarity of him the said E, by reason of the saying, speaking, & publishing of the same false & scandalous words of the same E, as aforesaid published & spoken, have utterly withdrawn themselves, & have altogether refused, & still do refuse to converse or keep company with the same E. And the same E divers great sums of money, which in the prosecution and defence of the pleas, actions, and suits of divers liege-people of the said Lord the King in the said Court of the Bench

Went aforesaid, as their Attorney there he might have gotten and gained, by that reason he hath wholly lost, to the damage of him the said E of six hundred pounds, and thereof he bringeth suit, &c.

Pledges for prosecuting, { John Doo.
Richard Roo.

A And the aforesaid T by F G his Attorney comes and defends the force and injury when, &c. and saith, that the aforesaid E his Action aforesaid, &c. because he saith, that before the said time in which it is supposed him the said T to have said, published, and spoken the aforesaid words in the Declaration aforesaid above specified, of the said E, that is to say, the sixth day of Nov. in the abovesaid ninth year of the reign of the said Lord the King that now is, in the aforesaid Court of the said Lord the King of the Bench here, that is to say, at Westm. in the County of Midd. some G M Cent. R F Cent. H E Cent. R B Cent. H P Cent. W W Cent. W C Cent. T C Cent. G F Cent. R W Cent. P N Cent. W W Cent. I W Cent. R H Cent. I B Cent. F K Cent. I R Cent. I P Cent. E W Cent. I C Cent. A B Cent. and T H Cent. being Attorneys, Clerks, Officers, or other Ministers of the aforesaid Court of the Bench aforesaid, by the said Court of the said Lord the King of the Bench aforesaid, and in a due manner were chosen to be the Jurors for the aforesaid Lord the King that now is, to inquire upon their oaths of all, and all manner of offences, misdemeanors, misprisions, and other misdeeds whatsoever, by any Attorney, Clerk, Officer, or other Minister of the same Court, and after such inquisition by them taken, to present the same to the said Court of the Bench aforesaid: To that intent that such offences, misdemeanors, misprisions, and other misdeeds so committed or perpetrated, by the same Court of the said Lord the King that now is, might be then and there punished and reformed.

The Defendant pleads that the Plaintiff was presented by the Jury of Attorneys for misdemeanors and therefore put out of the Roll. The names of the Jury of Attorneys.

And that every one of the said G M, R F &c. of and concerning the premises aforesaid, by the said Court of the said Lord the King of the Bench as aforesaid chosen, then add there severally, upon their corporal oath upon Gods holy Evangelist, well and faithfully to inquire, and present of and concerning the premises aforesaid indifferently, and without any respect or relation of favour, malice, or envie to any person or persons whatsoever to be had by the said Court of the said Lord the King of the Bench aforesaid, as aforesaid chosen, were then and there sworn.

And the same Jurors having taken upon them the charge of and concerning the premises aforesaid, afterwards, that is to say, the twenty eighth day of Nov. in the ninth year abovesaid, did present and give information to the said Court of the said Lord the King, of the Bench aforesaid at Westm. aforesaid, then being upon their said oath, the aforesaid E for divers misdemeanors and misdeeds by him before that time committed and perpetrated, that is to say, for a common fighter, and caviller, and a frequenter of Taverns and Ale-houses.

And the same T further saith, that within the Court aforesaid, from the time whereof the memory of men is not to the contrary it hath been used, that if any Attorneys, Clerks, or other Officers of the same Court of the Bench aforesaid should be presented for any such offences, misprisions, misdeeds, or misdemeanors by any such Jurors upon their oaths aforesaid. Then such Attorney so being presented for such his offence in form aforesaid committed and perpetrated from the Roll of the Attorneys of the said Court of the Bench aforesaid hath been accustomed, and ought to be put out and excluded. And that the aforesaid E O upon the same presentment by the Jurors of the aforesaid Court of the said Lord the King of the Bench

aforesaid, in form aforesaid, then and there made by the same Court of the said Lord the King of the Bench aforesaid, afterwards and before the aforesaid time in which, &c. (that is to say) the same twenty eighth day of November, in the ninth year abovesaid, from the Roll of the Attorneys of the Court aforesaid, was put out and extracted, whereby the same T M afterwards (that is to say) the aforesaid ninth day of 1a. in the ninth year abovesaid, at the aforesaid Castle of York, did say, relate, publish, and speak the aforesaid words in the Declaration aforesaid above specified (that is to say) he (the aforesaid E meaning) is no Attorney, for he (the said E likewise meaning) is put out of the roll, and put over the pearch, and must neither practise as Attorney or Solicitor, as well it was lawful for him. And this, &c. whereupon, &c.

And the aforesaid E saith, that he by any things, &c. Because by protesting that he the said E was not presented by the aforesaid Jurors so by the same Court of the said Lord the King of the Bench aforesaid, so as aforesaid chosen and sworn, in manner and form as the aforesaid T hath above alleged, for plea, the same E saith, that the aforesaid T the day and year abovesaid, in the Declaration aforesaid above specified, of his own wrong at the County of E aforesaid, did say of the said E the aforesaid words in the Declaration aforesaid specified (that is to say) He, &c. Without that that he the said E by the said Court of the said Lord the King of the Bench aforesaid, the said twenty eighth day of November, in the ninth year abovesaid, from the Roll of Attorneys of the said Court of the same Lord the King (the same Court of the said Lord the King of the Bench aforesaid, at Westminster aforesaid then being) was not put out and extracted, as the aforesaid T hath above alleged. And this he is ready, &c.

The Defendant demurres to the replication of the Plaintiff, because the Plea aforesaid is a negative pregnant, and the Traverse is insufficient, and he traverseth that which is not traversable.

And the Plaintiff joins in Demurrer.

Case for words
spoken of a
Mercer, (viz.)
Bankrupt.

W T late of C in the County of Devon. Peoman, was attached to answer P F of a Plea, wherefore, whereas the same P for ten years now last past hath exercised the Art or Mystery of a Mercer, and by all the same time hath gotten his wealth by way of buying and selling of Merchandises and Wares: And the same P hath alwayes kept and observed his contracts and credit with all his Creditors and other persons, with whom the same P in buying and selling was wont to deal, and never became a Bankrupt, but from all suspicion and notion of a Bankrupt hath alwayes lived untouched, whereby the same P had obtained and found great credit with his Creditors, and other Subjects of the said Lord the King. And by reason of his credit aforesaid so obtained hitherto, had gained and acquired divers gains and profits for the better augmentation in living and sustentation of him the said P and his whole family.

Nevertheless the aforesaid W well enough knowing the premises aforesaid, and endeavouring, and of his malice premeditated, intending to bring him the said P, not only into distrust of his Creditors, but also of other persons with whom the same P had intended upon his credit for to buy divers Merchandises and Wares, to the Art and Mystery of a Mercer belonging and appertaining, and by that means to spoil and deprive him the said P of his said means of living.

The same W the sixteenth day of M, in the tenth year of the reign of the

the said Lord the King that now is, at London, having communication with one I T the younger of the aforesaid P and of his credit, in the presence and hearing of very many leige people and faithful Subjects of the said Lord the King that now is, then and there present, did maliciously say, speak, and publish of the same P these false, feigned, and scandalous words following, (that is to say) your Cousen P F, one P F of C in the County of Devon, meaning, (W W M F of E the aforesaid P meaning) is broken, and his shop windows are shut up (the windows and shop of the same P in the City of E meaning.)

Whereupon the aforesaid I T then and there did ask of the said W, who had so said?

And the aforesaid W further continuing his malice aforesaid against the said P, and endeavouring and intending him the said P further to defame, and to cause him to fall into greater scandal, discredit, and diffidence amongst all his Creditors, and other the persons aforesaid, the same W then and there said, I (the said W also meaning) say so, do I not?

To which said W, the aforesaid I T the younger then and there replying said Yes.

And the aforesaid W then and there to the said I further said in these words following, speak it after me (the same W further meaning.)

By the pretext of the saying, speaking, and publishing of which said false and scandalous words aforesaid, the same P is fallen into so great distrust of his Creditors, and other persons with whom the same P had intended to contract for to buy the Merchandises and Wares aforesaid upon his credit, that such Creditors, and other the persons aforesaid, any Merchandises or Wares to the Art or Mystery of a Mercer belonging, to the same P to sell or deliver without money for the same, by him the said P beforehand paid, and ready down, have utterly refused, and still do refuse, and him the said P since the time of the saying, speaking, and publishing of the aforesaid false and scandalous words, as a Bankrupt have taken and reputed, and still do take and repute him, to the damage, &c.

Devon. ss. I C, otherwise C, late of, &c. was attached to answer W of a Plea, wherefore, whereas the same W for ten years now last elapsed, and more, at H aforesaid, had exercised the Arts or Myseries of a Butcher and Grazer. And by all the same time had there gotten his faculty of living, as well by way of buying of fat Cattel, that is to say, of Dren Cows, Hefers, Calves, Sheep, and Lambs, and of lean Cattel, that is to say, of Dren, &c. and of selling of the same after that such Cattel were made fat. The same W his words and contracts with all his Creditors and other persons, with whom the same W in buying and selling was wont to deal, had alwayes kept and observed, and never became a Bankrupt: But from all suspicion and note of a Bankrupt hath alwayes lived untouched and unsuspected, whereby the same W had obtained great credit with his Creditors, and other faithful Subjects of the said Lord the King that now is. And by reason of such his credit so obtained, had honestly gotten and gained to himself many gains and profits towards the better augmentation of the livelihood of himself and his whole family.

Nevertheless the aforesaid I not being ignorant of the premises, endeavouring to bring him the said W, not only into diffidence of his Creditors, but also into distrust of divers other persons, with whom the same W upon his credit had intended to contract, for the buying of Cattel, as well fat as lean, and by that means to spoil and deprive him the said W of his aforesaid means of living, the first day of M, in the year, &c. at H aforesaid; in the presence and hearing of divers of the Creditors of the same W, and of very

For calling a
Butcher
Bankrupt.
T 10 of King
Charles, Roll
2228.

very many other liege people of the said Lord the King, then and there present, then and there maliciously said, spoke, and published to the same W, and of the same W, these false, feigned, and scandalous English words following (that is to say) Thou (the said W meaning) Bankrupt Rogue, Thou (the said W again meaning) art a Bankrupt, and before I (the said I meaning) leave thee (the said W again meaning) I (the said I again meaning) will drive thee (the said W again meaning) out of the Country (this Realm of England meaning) By the pretence of the saying and publishing of which said false, scandalous, and malicious English words, the same W hath fallen into so great diffidence of his creditors, and other persons with whom the same W upon his credit had intended to contract, for to buy fat and lean cattel, that such creditors, and other the persons aforesaid have utterly refused, and still do refuse to sell or deliver any fat and lean cattel to the said W without money for the same by the same W before hand paid: And him the said W, since the time of the saying and publishing of the aforesaid English and malicious words, as a Bankrupt, they have taken and reputed, and him they do still take and repute, to the damage of him, &c. And wherupon, &c.

Case for words
spoken against
a Virgin.

WP, late of C St. George, in the County aforesaid Saylor, was attached to answer A H of a Plea, wherefore, whereas the same A is a chaste and honest liege woman of the Lord the King, that now is, and a maid, and as a chaste and honest liege woman of the same Lord the King, and maid, from the time of her Nativity hitherto, chastly, incorruptly, and undefiledly, hath demeaned, behaved, and governed her self, and of good name, fame, carriage, and honest life, conversation, and condition, with good, grave, honorable, and honest men, as well her neighbours, as other faithful liege people, of the said Lord the King hitherto, she hath been accounted, known, called, and reputed, and without any stain or scandal of whoredome, fornication, adultery, incontinency, or any other fault hurtful, or notorious crime unblamished and untouched by all the time aforesaid, she hath carried, behaved, and governed her self, and by reason thereof, the same A hath deservedly gotten to her self, not onely the great favour and good will of divers honorable persons, and other the liege people of the said Lord the King: But also divers persons of great repute, credit, and esteem, have willingly offered, and greatly desired to take to wife to them, and marry her the said A. And whereas also one C D being possessed of divers goods and chattels, as of his own proper goods and chattels, to the value of two hundred pounds of lawful money of England, had solicited, desired, and earnestly intended to marry her the same A for his wife, by reason of the aforesaid honest condition, fame and conversation of the said A.

Nevertheless the aforesaid W well enough knowing the premises aforesaid, and of his meer and naughty malice prepened, endeavouring and intending her the said A, not only in her good name, fame, repute, credit, and estimation aforesaid, to hurt, detract, deprave, blemish, and utterly destroy, but also the preferment of her the said A in marriage altogether to hinder, disturb, and utterly to frustrate, and to bring her the said A into scandal, infamy, and extream and final discredit with the said C, and honorable persons, and other the aforesaid faithful subjects of the said Lord the King, the second day of February, in the first year of the reign of the said Lord the King, that now is, in the presence and hearing of very many liege people of the same Lord the King; at S, falsely, feignedly, scandalously, and maliciously, did say, rehearse, publish, and speak of the same A these English words following (that is to say) A H (the said A H meaning) is with child by R K (one R K of C St. M in the aforesaid County of Devon Broom meaning) By pretext of the saying and publishing of which said false and scan-

A conference
is requisite to
be here insert-
ed.

scandalous words, the same A is grievously wounded, depraved, and impaired, not only in her good name, fame, credit, opinion, and estimation, with which she was formerly accounted and reputed, but also she is fallen in to great infamy, scandal, ignominy, and reproach, as well with the said honorable persons, and other the faithful subjects of the said Lord the King, as especially with the said C, and for a notorious harlot and common whores with the same honorable persons, and other liege people of the said Lord the King, and the said C, she is reputed, accounted, and notified, that the said C, by reason of the saying, speaking, and publishing of the aforesaid scandalous words, hath utterly refused, and still doth refuse to marry, and take her the said A to his wife: And the said honorable persons, and other the liege people of the said Lord the King, by pretext of the premises, from the presence and fellowship of her the said A have withdrawn, and daily more and more do withdraw themselves, and refuse in any wise to converse, and to have any thing to do with the said A, to the damage of her the said A of fifty pounds, &c. And whereupon, &c.

TRin. 5. Eliz Roll. 1056. 02 1556. W D Esquire, c. C D one of the Attorneys, &c. certain false and scandalous words of the same Plaintiff, to one I S Esquire, in the presence, &c. such a day and year at L, openly and publicly did speak, in these English words following (that is to say) take heed of him, he is the falsest knave in England, and by Gods blood he will cut your throat, and upon a demurrer it was adjudged for the Plaintiff. Judgment upon words. Note well.

MII. Ja. Roll. 711. between F and D. Case, he is a perjured fellow, and other words: As to part the Defendant pleaded not guilty, and as to the rest saith, that the Plaintiff at another time recovered damages for the same words in the Kings Bench, and traverseth, that he is guilty at any time after, and issue thereupon. Perjury.

MII. Ja. Roll. 708. Case between P and T for words, Thou hast kept false weights, a special writ. False weights.

M2. Ja. Roll. 1355. W W against G for words (that is to say) Thou shalt falsly forsworn, and dost forswear thy self in the Court of Cardington with R M, without any averment that it was a Court of Record, and the Defendant pleaded not guilty, and issue thereupon, but no Judgment given; so it is thought that it was said in arrest of Judgment. W C Attorney for the Plaintiff. W W for the Defendant. Slander of a person for perjury in an inferior Court.

P2. Ja. Roll. 64 i. ff. W T brought an action upon the case against G B for slanderous words (that is to say) He is a thief, and hath stolen my Oats (meaning the oats of him the said G) The Defendant pleaded not guilty, and it was found against him for the Plaintiff, and Judgment thereupon, and damages taxed to five pounds and ten shillings. It is thought for that, that it shall be intended that the oats were growing, but Q if it was the matter in Court. The like for theft.

TRin. 2. Ja. Roll. 260. I D against T B, case for words (that is to say) Thou art a knave, and a perjured knave, and that I will prove. The Defendant pleaded not guilty, but no Judgment given, for it seems that the words are not actionable. Nevertheless, Q. The like for perjury.

M12. Ja. Roll. 1106. N against S, for calling the Plaintiff Bastard, where he had lands by descent, as Heir from his father. Bastard.

A Witch.

TRin. 13. Ja. Roll. 113. R against T B, case for such words (that is to say) I M meaning, is a *Witch*, and I (himself I C meaning) will prove him so. And I have seen him (the same, &c.) and his inips, or evil spirits appear to me in the night time in my chamber. And he (the same, &c.) did unwitch a child of mine (of him the said I again meaning) &c. Judgment and damages.

Many pre-
fidents.

TRin. 43. Eliz. Roll. 3024. Tr. 9. Ja. Roll. 3195. between S and M, the is an outrageous *Witch*, Pas. 9. Ja. Roll. 1063. in the common Bench: Thou art a *Witch*: H. 8. Ja. Roll. 754. Pas. 3. 1a. Roll. 1017.

A special ju-
stification for
words, touch-
ing theft.

TRin. 17. Ja. Roll. 1931. c. Brownlowe, York ss. I R and E M, case for words, He is a thief, and stole his Ankles beans, Action not, because he saith, that before the speaking of the words (that is to say) such a day and year, one M R, Ankle of the aforesaid Defendant, was possessed of three Hocks of beans, being in a certain close of land of the same M in T aforesaid, as of his own proper goods and chattels, and so possessed the said Plaintiff afterwards (that is to say) the same day and year abovesaid, the aforesaid three Hocks of beans of him the said M, in the close aforesaid being, feloniously did take and carry away, whereby the said Defendant, the aforesaid such a day and year, did say of the aforesaid Plaintiff the aforesaid English words, in the declaration aforesaid, above specified (that is to say) &c. as it was well lawful for him, &c. Judgment of the action. Replication of his own wrong, &c. *Without*, &c.

Witch.

A motion in
arrest of judg-
ment.

Nota bene.

Superfedeas
quia improvide

TRin. 7. Ja. Roll. 1889. c. Gulton Derb. ss. case for words (that is to say) He is a *Witch*, and hath bewitched me: And afterwards, in M 17. at the day in Bench, H moved in arrest of Judgment, because the words are too general, and will not bear action. H, W, and W, Justices (absent Hobart) agree, But War. said, that if the Defendant had said that the Plaintiff is a *Witch*, and hath bewitched me that I am lame, &c. these words are actionable, which Hut. & Winch did grant. Gul. the Prothonotary said, that the Judgment was entered, & Execution gone against the Defendant: War. said, that Judgment was entered too speedily, let a Superfedeas quia improvide be made, for the Plaintiff hath no cause of action, to which H and W, Justices, did accede, and a Superfedeas was made accordingly.

Case upon the
Statute, for
slandering of
a Peer of the
Realm.

MIch. 1. Marie Roll. 717. Elsewhere, as it appeareth in the Term of the Holy Trinity, in the seventh year of the reign of the Lord Edward, the sixth late King of England, after the Conquest, Roll. 510. it is contained thus, Wiltes. ss. T C late of, &c. was attached to answer as well the Lord the King, as C S knight, Lord S of a Plea, wherefore, whereas in the Statute, &c. rehearsing the Statute, de scandalis Magnatum, at W, maliciously did say, relate, and in English words publicly did speak (that is to say) The Lord S has burned my Barn, whente a scandal and great discord to the said C, then there within the said Realm, did arise, in contempt of the Lady the Queen, that now is, and the damage of him the said C of one hundred pounds. And against the form of the Statute aforesaid, whereupon he saith, &c. The Defendant pleaded not guilty, and Judgment given for the Plaintiff. See the Lord Cromwells case: Cokes rep. 4. fol. 13. a. The principal reason, for that that alwayes this action is brought in the name of the King and party.

Case for scan-
dalous words
against a
Priest in ordi-
nary.

WC Clerk, complaineth of R W in the custody of the Marshall, of the Marshall, &c. for that (to wit) that whereas the said Plaintiff is a good, true, pious, faithful, and honest subject, and liegeman, of the Lord the

the King, that now is, and as such a good, true, pious, faithful, and honest subject and liege-man of the same Lord the King that now is, and of the Lord James, late King of England, from the time of his Nativity hitherto, he hath lived, demeaned, behaved, and governed himself, and of good name, fame, credit, and pious and honest condition, conversation, repute, and behaviour with all his neighbours, and other faithful subjects of the said Lord the King, that now is, to whom he was known or conversant with, by all the same time he was accounted, called, held, and reputed: And no perjurier, falsifier, or deceits at any time did commit, nor any false oath at any time did make; but without any kind of theft, felony, perjury, fraud, robbery, or any other such like hurtful, notorious, and detestable crime whatsoever, or the note, spot, or suspicion of any of them, free, void of, innocent, untouched, and unsuspected, he hath lived, remained, and continued. And whereas the said Plaintiff for nine years together, and more, was brought up in good learning, and arts, in the nourishing University of Oxford, and for six years of the same nine years was busied in the said University, in the Study of Divinity: And in the same Study, in other parts of this Realm of England; for divers years, from thence alwayes afterwards hitherto, he hath studied upon, and did take upon him the degree of a Batchelor of Arts in the same University: And likewise did take upon him the sacred Orders of Priesthood, from the Reverend Father in Christ, Joseph, Bishop of Exeter. And to the perpetual Vicaridge of the Parish Church of Ide, being a Vicaridge, with cure of souls, by reason of his integrity of life, and of his science and knowledg in Divinity, such a day and year the said Vicaridge then being void, was presented, instituted, and inducted, and in the same Vicaridge his Pastoral office alwayes, after the said induction in the same hitherto, he hath well and laudably exercised, by preaching the Divine Word of God on Sundays, and other fit times, to the Parishioners aforesaid, and other Christian people thither coming, according to the truth, and genuine sense of the same truth, canonically and laudably, and also did administer the Sacraments at Canonical times and places; by the same time to be administered: By presence of which his said good name, and fame, and pious, intire, and honest condition, conversation, and behaviour, and sincere manner of living, the said Plaintiff did get, and obtain, not only the great love and good will, as well of his Neighbours and Parishioners aforesaid, as of other reverent men, but also did procure and acquire a great hope and probability of the greater preferment of the same Plaintiff, to his exceeding great comfort and advantage. Nevertheless, the aforesaid Defendant not being ignorant of the premises, but endeavouring, and maliciously intending to deprive the same Plaintiff of his good name, fame, credit, and repute aforesaid, and to destroy all the hope and probability of the preferment of the same Plaintiff; and also to cause the same Plaintiff to be accounted and reputed for a dishonest and perjured man, and him undeservedly to undergo and incur, as well the Ecclesiastical censures of deprivation, and degradation of Ecclesiastical persons, as without desert to cause him to fall into, and come under the pain of the Statute against Perjury, set forth and provided, and undeservedly to cause to be brought, and to bring the same Plaintiff into the forfeiture of all and singular his goods and chattels, rights and credits, lands and tenements, and into danger of the losse of his life; such a day and year at, &c. in the presence and hearing of very many faithful subjects of the said Lord the King, that now is, then and there present, and hearing, falsely, maliciously, and scandalously did say, relate, and publish of the same Plaintiff, and to the same Plaintiff these feigned, scandalous, and opprobrious English words folloving (that is to say) Thou (the said Plaintiff meaning) art a perjured Rogue, a base Rogue, and a drunken Rogue. And the aforesaid Defendant in his malice aforesaid, then and there continuing, and to induce and bring

the same Plaintiff into further ignominy and scandal, then and there did say to the said Plaintiff these other false English words following, that is to say, Sirrah Satterley (the said Plaintiff again meaning) thou (the same Plaintiff likewise meaning) hast picked my Purse (the Purse of him the said Defendant meaning.) By pretence of the saying and speaking of which feigned and scandalous English words aforesaid, the same Plaintiff is very greatly wounded, not onely in his good Name, Fame, Credit, and Repute aforesaid, with which befoze that time he was indued, and hath spent and disbursed much time, and very great summs of money, in and about his discharge and purgation in this behalf: But also of many Subjects of the said Lord the King that now is, to whom the innocency of the same Plaintiff in this behalf was known, he is greatly suspected to have committed or perpetrated some noxious Perjuries, Felonies, or Thefts: And so divers faithfull, honorable, and religious Subjects of the said Lord the King, that now is, who with the same Plaintiff, befoze the saying and speaking of the aforesaid words, by way of friendship, had fellowship and conversation, by the occasion of the saying and speaking of the said words, have more and more withdrawn, and daily do withdraw themselves from the company and society of the said Plaintiff: And the same Plaintiff, by the occasion aforesaid, hath wholly lost his gains and profits, which he in doing and performing of his lawfull and honest businesses might lawfully and honestly have gained of divers persons, with whom the same Plaintiff befoze that time was wont to have commerce for the livelihood, maintenance, and sustentation of himself, and his whole family, to the damage of him the said Plaintiff of two hundred pounds, &c.

Action upon the Case.

Trespass on the Case, brought by a Justice of the Peace, for slanderous words spoken of him, concerning his office.

Shewing, that he was, and still is one of the Justices of the Peace for Oyer and Terminer.

Hill 5. Jac. Roll. 3027. Browker. Devon. ff. R M, late of, &c. was attached to said W W Esquire, of a Plea, that whereas, &c. And whereupon the said W by T T his Attorney complaineth, that whereas the said W is a good, true, and faithful Subject, & as a true & faithful Subject of the Lord the King, that now is, & of divers of his Progenitors late Kings & Queens of England, from the time of his birth, hitherto himself hath behaved and governed, & of good name, fame, conversation, and repute, as well amongst honourable and worshipful persons, as all other Subjects of the said King and his Progenitors, to whom the said W was known, and with whom the said W any manner of way had dealing by the whole time aforesaid, was alwayes accepted, reputed, and taken. And whereas also the said W the twentieth day of August, in the year of the reign of the said Lord the King, that now is, of England, France, and Ireland, the fourth, and of Scotland the fortieth, and for sixteen years then last past, and continually after the said twentieth day of August hitherto, was, and as yet is one of the Justices of the same Lord the King, that now is, and of the Lady Elizabeth, late Queen of England, for keeping the peace in the County of Devon, and assigned to hear and determine divers felonies, trespasses, and other misdemeanours in the said County committed: And the said W by the whole time aforesaid, wherein the said W, one of the Justices aforesaid, as abovesaid hath remained, Justice to all, according to the Law of this Realme of England, equally and truly did administer, and in exercising of his office of one of the Justices aforesaid, and in all other his businesses and actions, justly and

and honestly, without any fault or suspicion of bribery, or of any other falsity or crime whatsoever, unhurt and innocent did remain and continue, and also his servants, out of his own proper moneys, and not out of any gifts or rewards to the said W given, did maintain and keep, and by reason thereof, the said W had acquired and gotten to himself the great benevolence, good opinion and estimation, as well amongst divers honorable persons, as other faithful Subjects of this Realm of England, his neighbours and friends, notwithstanding the said R, not being ignorant of the premises, but meaning him the said W in his good name, fame, estimation, and reputation aforesaid, greatly to hurt, and make worse, and to bring him the said W into scandal, infamy, and disgrace, as well amongst all honorable and worshipfull persons, as amongst his neighbours, and other faithful Subjects, of the said now King, the aforesaid twentieth day of August, in the year of the reign of the said King of England, France, and Ireland, the fourth abovesaid, at Columpton, these false, feigned, and scandalous words following of the said W, then being as aforesaid one of the Justices of the said King assigned for keeping the Peace in the said County of Devon, and to hear and determine divers felonies, trespasses, and other misdemeanours in the said County committed, in the presence and hearing of very many Subjects of the said King, then and there being, openly and publicly did speak, utter, publish, and proclaim (that is to say) W W (the same W meaning) is a bribing Justice, and maintaineth his men by bribery: By reason of the speaking and publishing of which false, feigned, and scandalous words, the said W, not only in his good name, fame, estimation, and reputation aforesaid, wherein he was before that time induced, is much hurt, and made worse; but also divers great sums of money in this behalf, for the manifestation and clearing of his innocency in the premises, was forced and compelled to lay out and expend, to the damage of the said W of two hundred pounds, and thereof he bringeth suit, &c.

TRin: 21. Jacobi Roll. 732. Brownlowe. Norff. ff. RF, late of K, in the County aforesaid Peoman, was attached to answer TH Knight, and TB of a Plea, that whereas, &c. And whereupon the said T and T, by IB their Attorney do complain, that whereas the said R, the first day of September, in the twelfth year abovesaid, and before, was, and yet is, seised of three roods of land, with the appurtenances in Q, in the County aforesaid, lying in a certain place there called Gatelam furlong in his demesne, as of fee, upon which three roods of land, certain rain waters were then standing and lying.

Case brought by two Copartners against J. S. for stopping of a gutter upon a Meer, whereby the Plaintiffs corn was destroyed.

And whereas also the said TH, the same day and year, and long before had been, and yet is, seised of four acres of land, with the appurtenances in Q aforesaid, lying together in a certain place there called Drakenhowe. And the said TH, so thereof being seised, the same first day of S, in the twelfth year abovesaid, at Q aforesaid, it was agreed and concluded between the said TH and TB, that the said TB the said four acres of land at his own proper costs and charges should plow and till, apt and convenient to be sowed with rye. And that the said TB one moiety of the rye in the said four acres of land to be sowed, at his own proper costs and charges, should find and provide. And that the said TH the other part of that rye, upon the said four acres of land to be sowed at his proper costs and charges, should likewise find and provide: and that then the said TB the said four acres of land, with the said rye at the proper costs and charges of the said TB, should sow: And that the said TB in convenient time of the year, the blades of the said rye in and upon the said four acres of land so sowed, and

Copartnership in sowing the land, and their agreement.

there growing, at his like proper costs and charges, should mow, and the rye thereof coming from thence, should carry, and into the barn of the said T H in Q aforesaid should put: And that thereupon the said T H one moiety of the said rye, in and upon the aforesaid four acres of land growing and coming, should have to the proper use of the said T H: And the said T B the other moiety of that Rye, to the proper use of the said T B should have. And whereas also the said T B thereupon afterwards, that is to say, the last day of October, in the twelfth year abovesaid, at his own proper costs and charges, the aforesaid four acres of land apt and convenient with rye to be sowed did plow and till: And the said T B one moiety of the said rye in the said four acres of land to be sowed at his own proper costs and charges did find and provide: And the said T H the other part of that rye in the said four acres of land to be sowed at his proper costs and charges, did likewise find and provide: And thereupon the said T B afterwards, that is to say, the one and twentieth day of September, in the twelfth year abovesaid, the said four acres of land, with that rye, at the proper costs and charges of the said T B did sow; notwithstanding, the said R meaning them the said T H and T B, in this behalf greatly to hinder and prejudice, and of the profit and commodity of the said rye, of them the said T H and T B, in the said four acres of land, so as aforesaid being sowed, and coming to receive and defraud the twelfth day of November, in the twelfth year abovesaid, a certain Coffer in a certain meer between the said place called G Furlong, and the said place called Draken-howe, did make and digge, whereby the waters aforesaid, upon the said three roods of land of the said R, there standing and lying from the said three roods of land, in and upon the aforesaid four acres of land falling, those four acres of land by a long time were drowned, and by reason thereof, the blades of the said rye of the said T H and T B, in and upon the said four acres of land growing, became putrid, and of no strength, to the damage of the said T H and T B of twenty pounds, And thereof they bring Suit, &c.

Defendant pleads not guilty.

Case for a
Commoner a-
gainst I S, for
digging of
Turfs in the
Common,
whereby the
Common be-
came barren,
and he could
not enjoy it.

TRin. 21. Jacobi Roll. three thousand eleven. Brownlowe. Yorkshire ff. Richard Cowle, Ralph Sexton, Thomas Clarke, and William Woodward, were attached to answer Thomas Graver of a Plea, that whereas the said T G was seised of one messuage, and eighty acres of land, with the appurtenances in Min fee, &c. and so prescribe for common appurtenant, for all commonable cattell in Myton Moore, notwithstanding the said R R T and W meaning, &c. the thirtieth of June, and nineteenth of January, the Bush wood, that is to say, sixty Carts load of Bush wood in the aforesaid place, called Myton Moore, yielding and bearing grasse, and feeding, and pasturage for the Cattell of the said T G, in the aforesaid place called Myton Moore, depasturing, and feeding in divers and several places in the aforesaid place called M M, they did digge and cut, whereby the ground in which the Bush wood aforesaid were digged and cut, and in which the cattell of the said T G, by the time aforesaid, were wont and accustomed to common and depasture, is become barren, and without grasse: So that the said T G of, and in the receiving and having any profit in his Common aforesaid, with his Cattell aforesaid, is very much hindered, depastured, and made the worse, to the damage of the said T G of forty pounds: And thereof, &c.

Trin.

TRin, 13. Jac. Roll, 725. Brownlow. Norff. H. R. C late of, &c. was attached to answer T H the younger, Gent. &c. And whereupon the said T by R N his Attorney complaineth, that whereas one H I Esquire, of long time was and yet is seised of the Mannor of C, with the appurtenances, in the County aforesaid, whereof one Messuage, four acres of Land, and three Woods of Pasture, with the appurtenances, in C aforesaid, are and from the time whereof the memory of man is not to the contrary, were parcel in his Demesne as of fee, which Tenements, with the appurtenances, are and from the time whereof the memory of man is not to the contrary, were customary Tenements of the same Mannor, and demised and demisable by copy of Court Roll of that Mannor by the Lord of the same Mannor, or by his Steward of the Court of that Mannor for the time being, to what person or persons soever were willing to take the same in fee simple for term of life or years, at the will of the Lord, according to the custom of the said Mannor.

And whereas the said H, and all those whose estate the said H hath in the said Mannor, with the appurtenances, from the time whereof the memory of man is not to the contrary, have and were accustomed to have for their customary Tenants of the Tenements aforesaid, with the appurtenances, Common of pasture in and upon a certain Pasture containing forty acres, called Biscoe Common, in C aforesaid, for all his commonable Cattel upon the Tenements aforesaid, with the appurtenances, levant and couchant, every year at all times of the year at their pleasure, as to the said Messuage, four acres of Land, and three Woods of pasture with the appurtenances, belonging.

And the aforesaid H of the Mannor aforesaid, with the appurtenances, in form aforesaid being seised, the said H, at the general Court of the said H of his Mannor aforesaid, holden at that Mannor the thirtieth day of September, in the year of the reign of the Lord the King that now is the tenth, by one G E Gent. his Steward of the Mannor aforesaid, by copy of the Rolls of that Mannor, did grant to the said T the Tenements aforesaid, with the appurtenances, to have and to hold to him and his Heirs, at the will of the Lord, according to the custom of the said Mannor. By virtue of which grant the said T into the Tenements aforesaid, with the appurtenances, did enter, and was and yet is thereof seised in his Demesne as of fee, at the will of the Lord, according to the custom of the same Mannor.

Notwithstanding the said R not being ignorant of the premises, but meaning him the said T of his Common of pasture aforesaid, with his commonable Cattel in and upon the said pasture, called Biscoe Common, in form aforesaid had and received, to hinder and defraud, the thirtieth day of August, in the year of the reign of the now King the eleventh, the said R then or at any other time afterwards, not having any right or title to have any Common of pasture with any his Cattel in and upon the said pasture, called B Common, his Cattel, that is to say, Horses, Geldings, Cows, and Hogs upon the said Common, called Biscoe Common, to eat up the grass there growing did put, and the grass in and upon the same Pasture growing, from the said thirtieth day of August, in the eleventh year aforesaid, until the first day of May, in the year of the reign of the said Lord the King that now is the thirteenth, divers days and turns with his Cattel aforesaid did eat up, tread down, and consume, whereby the said T the profit and commodity of his Common of Pasture aforesaid, in and upon the aforesaid Pasture, Biscoe Common, with his commonable Cattel in and upon the said Messuage, four acres of Land, and three Woods of Pasture, with the appurtenances, levant and couchant in such ample and beneficial manner and form as he ought, and was wont, and as before the putting of the aforesaid Cattel of the said R in the said Pasture called Biscoe Common, he had and received, by the same time he could not have and enjoy, but the Cattel of the said T in and upon the said Messuage, four acres

Trespass on the case for a Commoner against an stranger for eating and consuming the grass of the Common appurtenances of the Copiholder, whereby he could not enjoy his Common in such ample manner as he ought to do.

T 181 Roll 705 and 1919 T 40 Eliz. Roll 1908. Case brought by a Termor, for that the Def. disturbed him of the use of his Common, chasing his beasts out of the Common, See before fol. 55.

The copy of the Grant of the Lord, and the evidence of the Tenant, according to the custom. Entry of the Copy-holder.

The precedent act.

The damages of the Plaintiff.

of Land, and three Woods of Pasture, with the appurtenances, by the same time leuant and couchant in and upon the said Pasture, called Biscoe Common, by the time aforesaid feeding, for want of sufficient pasturage there, by the said time had, by the occasion aforesaid being hindered, were much prejudiced and made worse, to the damage of the said T of forty pounds, and thereof he bringeth his suit, &c.

Barre.
The Def. justifies as lessee for years of ten acres of Land, to which he had Common appurtenant, and that he put his Cattel and eat the grass in the Common, as before spoken.

Prescription of the lessor of the Defend. to have Common.

Demise to the Defend.

Replication.

AND the said R C by T E his Attorney cometh and defendeth the force and wrong, &c. And as to the putting of any Horses and Cows into the said Pasture, Biscoe Common, and the eating up, treading down, and consuming of the grass aforesaid, in the same Pasture, with the same Horses and Hogs, he saith, that he is thereof in no wise guilty, as the said T above against him hath complained: And of this he putteth himself upon the Country: And the said T likewise: And as to the putting of his Celdings and Cows aforesaid, residue of the Cattel aforesaid, into the same Pasture, and the eating up, treading down, and consuming of the grass aforesaid there, with the said Celdings and Cows, saith, that the said T his Action thereof against him ought not to have; because, he saith, that long before the said time, in which it is supposed him the said R to have put his Cattel aforesaid into the said Pasture called B Common in form aforesaid, to feed the grass there growing, one R B was seised of ten acres of Land, with the appurtenances, in C aforesaid in his Demesne as of fee. And the said R, and all those whose estate the said R now hath, and the aforesaid time in which, &c. had in the said ten acres of Pasture, with the appurtenances, from the time whereof the memory of man is not to the contrary, have had, and were accustomed to have for themselves, their Farmers, and Tenants of the said ten acres of pasture, with the appurtenances, Common of pasture in the aforesaid Pasture called Biscoe Common, for all their commonable Cattel upon the said ten acres of Land, with the appurtenances, leuant and couchant every year, in every time of the year, as to the said ten acres of Land with the appurtenances belonging.

And the said R B so thereof being seised, afterwards and before the said time, in which, &c. that is to say, the twenty sixth day of August, in the year of the reign of the Lord the King that now is, of England the seventh, at C aforesaid, did demise to the said R the aforesaid ten acres of Land, with the appurtenances, to have and occupy, to the said R and his Assignes, from the feast of St. M the Archangel then next following the date of the said Indenture, untill the end and term of seven years from thence next ensuing, and fully to be compleat and ended, by virtue of which demise the said R before the said time in which, &c. into the said ten Acres of Land, with the Appurtenances did enter, and was thereof possessed, and so being thereof possessed, before the said time in which, &c. put his Cattel aforesaid, which were the proper Cattel of the said R, upon the said ten Acres of Land, with the Appurtenances leuant and couchant, into the said Pasture with the Appurtenances called Biscoe Common, to feed the grass there then growing, and the said grass in and upon the said Pasture, with the Appurtenances called Biscoe Common, the aforesaid times in which, &c. growing, with his Cattel aforesaid, did eat up, treade downe and consume, as it was lawfull for him to doe: And this he is ready to prove, whereupon he prayeth judgement, Action, &c.

AND the said T, as to the aforesaid Plea of the said R, to the putting of his Celdings and Cows into the aforesaid Pasture called Biscoe Common, and the eating up, treading downe, and consuming of the said grass, there with his said Celdings and Cows above in Bar pleaded, ought not thereof to be barred, because by protestation, he saith, that the said R B before

the said time, in which, &c. was not seised of the said ten Acres of Land, with the Appurtenances in his demesne as of fee, protesting also that the said R B did not demise to the said R, the same ten Acres of Land with the Appurtenances, the said R above hath alledged, for Plea the said T, as at first saith, that the said H I, and all those whose estate the said H hath in the said Mannor, with the appurtenances, from the time whereof the memory of man is not to the contrary, have had, and were accustomed to have for their customary Tenements of the Tenements aforesaid, with the appurtenances, Common of pasture in and upon the aforesaid pasture, containing forty acres, called Biscoe Common, in C aforesaid, for all their commonable Cattel upon the aforesaid Pasture, four acres of Land, and three Woods of Pasture, with the appurtenances, leuant and couchant every year, at all times of the year, as to those Tenements, with the appurtenances belonging, as he hath above alledged: without that that the said R B, and all those whose estate the same R now hath, and the aforesaid time in which, &c. had in the said ten acres of Land, with the appurtenances, from the time whereof the memory of man is not to the contrary, have had, and were accustomed to have, for themselves, their Farmers and Tenants of the said ten acres of Land, with the appurtenances, Common of pasture in the aforesaid Pasture, called Biscoe Common, for all their commonable Cattel upon the said ten acres of Land, with the appurtenances, leuant and couchant in every year, at all times of the year, as to the aforesaid ten acres of Land, with the appurtenances, belonging, as the said R above hath alledged. And this he is ready to prove, whereupon he prayeth judgment, and his damages by occasion of the premisses to him to be adjudged. &c.

Plaintiff maintains his prescription.

Traverse the prescription of the Defendant.

And the said R as at first saith, that the said R B, and all those whose estate the said R B now hath, and the aforesaid time in which, &c. had in the said ten acres of Land, with the appurtenances, from the time whereof the memory of man is not to the contrary, have had, and were accustomed to have, for themselves, their Farmers and Tenants, of the said ten acres of Land, with the appurtenances, Common of pasture in the aforesaid Pasture, called Biscoe Common, for all their commonable Cattel upon the same ten acres of Land, with the appurtenances, leuant and couchant in every year, at all times of the year, as to the said ten acres of Land, with the appurtenances, belonging, as the said R hath above alledged. And of this he putteth himself upon the Country. And the said T likewise. Therefore as to the trial as well of this issue as the aforesaid other issue above joyned, the Sheriff is commanded that he cause to come here, &c.

Rejoinder. The Defendant maintains his barre.

See the like Count H 7 Ja. Roll 336. between C M and reported by Coke 9. fo. 112.

Trespass on the Case by a Deputy Sheriff upon an assumption, that the Defendant did promise to pay him 50 li. for the execution of a Writ, part when the party was arrested, and the residue when he should make satisfaction, &c. also to save the Deputy harmless. Non omittas & cap. ad act. out of the Exchequer.

TRin. 13. Jac. Roll. 3623. Brownlow. Midd. ff. T S was attached by a Writ of privilege to answer W W here, one of the Clerks of R B, &c. And whereupon the said W in his proper person complaineth, that whereas the said T the second day of April, in the year of the reign of the Lord the King that now is, of England, &c. twelfth, at high Holborne, brought to the said W then Deputy of T B, and H I, then Sheriff of the County aforesaid, a certain Writ of the said Lord the King, of Capias ad Satisfac. issuing out of the Exchequer of the same Lord the King, against him, and certain I H and R B, at the suit of T H to the aforesaid then Sheriff of Midd. directed, and before the Barons in the Exchequer aforesaid, from Easter day in fifteen dayes then next following returnable, by which said Writ it was commanded to the said Sheriff of Midd. that he should not omit for any liberty of his County, but that he should enter into it, and should take the aforesaid I and R by the names of I H of C in the County of E Cent. and R B of London Cent. Manucaptors of I H of London Cent. otherwise called, &c. wheresoever they should be found in his Waplewick, and that he should safely keep, so that he might have their bodies before the Barons

rons of the Exchequer of the said Lord the King at Westminster aforesaid, from Easter day in fifteen dayes to satisfie T H Debtor of the said Lord the King, as well of a certain debt of forty pounds, which the same T in the Court of the said Lord the King, before the Barons of his Exchequer at Westminster, hath recovered against the said I H, as of six pounds, which to the said T in the same Court of the said King were adjudged for his damages which he had by occasion of the detaining of the said debt, whereof he is convicted, as by the inspection of the Rolls of the said Exchequer of the said Lord the King appeareth. And whereupon it was considered in the said Court of the said Lord the King, that the said T should have execution against the said I H and R B, and that the same Sheriff should have there that writ. And whereas also the said W then fearing damage and disprofit to him might happen, if he should make out execution of the writ aforesaid, against the said R, if the said R should then be under the protection of the said Lord the King, or a person any wayes privileged from arresting of his body.

Consideration

The Promise.

Several payments.

Arrest during the Parliament.

Prerogative of Parliament.

The breach of promise.

The aforesaid T then and there, in consideration that the said W then as aforesaid, being Deputy of the said Sheriff, at the special instance and request of the said T, would procure the said R to be taken and arrested by virtue of the writ aforesaid, did assume upon himself, and to the said W did then and there faithfully promise, that he the said T, five pounds of lawful money of England to the said W, for his industry and labour in that behalf well and truly would pay and content, in manner following, that is to say, sixty shillings thereof upon the arrest of the said R, and forty shillings thereof residue, when as the said R should satisfie the debt and damages aforesaid, and that the said T would save him harmless from all damages whatsoever, which to the said W should come or happen, by reason of the arrest aforesaid of the said R, if the said R any wayes from arresting be privileged or protected. And although the said W, upon confidence of the faithful performance of the promise and assumption aforesaid of the said T, afterwards, that is to say, the third day of April, in the twelfth year abovesaid, during the Session of Parliament of the said Lord the King at Westminster, in the County aforesaid then being held, the aforesaid R, by virtue of the writ aforesaid, at high Holborne aforesaid, did cause to be taken and arrested, and him so being taken and arrested, by that occasion did cause to be detained, until the said R, by virtue of a certain writ of the said Lord the King of Habeas Corpus, to the said Sheriff directed, before the said Lord the King and his Lords in the said Parliament at Westminster aforesaid, in the upper House of the Parliament there assembled, afterwards, that is to say, the fifteenth day of April, in the twelfth year abovesaid, by the said Sheriff was brought, and there by authority of the said House of Parliament, as a person privileged of the said House was set at large: And although also the said W by order of the said Court of Parliament, made divers labours and attendances to the said Court, by reason of the arrest aforesaid, as also divers sums of money, in the whole amounting unto seven pounds of lawful money of England, by that occasion was forced to expend, so that the said W, by reason of the arrest aforesaid of the said R, by virtue of the writ aforesaid was much damaged: Notwithstanding the said T S his promise and assumption aforesaid little regarding, the aforesaid sixty shillings to the said W as aforesaid, according to the promise and assumption of the said T aforesaid, upon the arrest of the said R, as aforesaid, to be paid, or any penny thereof to the said W hath not satisfied, nor any amends for the damages aforesaid, by him as aforesaid sustained, according to his promise and assumption aforesaid, hath hitherto made (although to do the same afterwards, that is to say, the twentieth day of October, in the twelfth year abovesaid, and often afterwards, at high Holborne aforesaid, he had been reasonably required) but those sixty shillings to the said W to satisfie, or to make amends for his labours and damages aforesaid.

asforesaid, by him as aforesaid sustained, hath refused, and as yet doth refuse, to the damage of the said W of twenty pounds. And thereof he bringeth his suit, &c.

Defendant pleads he did not assume.

TRin. 13. Ja. Roll. 1623. Brownlowe. London ff. JS, late of London, Gent. was attached to answer IG, &c. And whereupon the said IG by Trespas on the Case, in R M his Attorneys complaineth, that whereas one R J the thirteenth day of consideration that the Plaintiff at the request of the Defendant would become Bail for an estranger, the Defendant promised to give the Plaintiff twenty pounds if he was damned. Plaintiff levied against an estranger arrested. Consideration. Promise. the Plaintiff taketh baile. Judgement and execution against estranger. Case against baile, which note without any satisfaction.

October, in the year of the reign of the Lord the King that now is, &c. the ninth, by virtue of a certain precept upon a certain plaint, levied by one R B in the Court of the said Lord the King of his Tower of London, holden at the Tower of London, according to the custome of the same Court, from the time whereof, the memory of man is not to the contrary used, and appointed out of that Court issuing to one F B, then chief Warder of the Tower of London directed, and in the said Court returnable in due form by the said F, at the Tower of the said Lord the King aforesaid, had been taken and arrested, to answer the said R B in a certain Plea of trespass upon the Case, to the damage of the said R B of ten pounds. And the said R I so being taken; and in prison of the said Lord the King, under the custody of the said F, for the cause aforesaid detained, the said IS the day and year abovesaid at London, in the Parish of St. Mary Bow, in the Ward of Cheap, in consideration that the said IG, at the special instance and request of the said IS, would become Bail for the said R I, in the cause aforesaid, then in the Court depending, according to the custome of the said Court of the Tower of the said Lord the King, did assume upon himself, and to the said IG then and there faithfully promise, that if the said IG should be damned, by reason of his being Bail aforesaid, in the cause aforesaid, then the said IS twenty pounds of lawfull money of England unto the said IG, when he should be thereunto required, well and faithfully would give and pay: And although the said IG, upon confidence of the faithful promise and assumption of the said IS aforesaid afterwards, that is to say, the fourteenth day of October, in the year of the reign of the said Lord the King, that now is, the ninth abovesaid; at the Tower of the said Lord the King of London, according to the custome of his said Tower of London, did become Bail for the said IR, in the cause aforesaid, then in the same Court depending: And although also the said R B afterwards, that is to say, at the Court of the said Lord the King, of the Tower aforesaid, holden at the Tower aforesaid, the ninth day of December, in the said year of the reign of the said Lord the King, the ninth abovesaid, before IA Steward there, according to the custome of the same Court, had recovered against the said R I, of and upon the plaint aforesaid, nine pounds fifteen shillings six pence for his damages, costs, and charges which he sustained by occasion of the said trespass upon the case: And although also afterwards, that is to say, at another Court of the said Lord the King of the Tower aforesaid holden at the Tower aforesaid, before the said IA then Steward there, the twenty fourth day of December, in the year of the reign of the said Lord the King that now is, the ninth abovesaid, for that the said R I did not satisfy the said R B of the damages aforesaid, as aforesaid recovered, neither rendered his body in execution for the damages aforesaid, according to the form of the Writ of Imprisonment aforesaid, a certain precept from the Court of the said Lord the King of the Tower aforesaid, to the said F B then chief Warder, of the said Tower directed in due forme, according to the custome of the same Court did issue by which precept to the said Warder it was commanded, that he should take the said IG if he should be found within the precinct of the said Tower, and him safely keep, so that he should have his body at the next Court of the said Lord the King, of his said Tower of London, to satisfy the said R B of the said nine pounds fifteen shillings six pence for his damages, costs, and charges aforesaid, according to the form of the Writ of Imprisonment aforesaid.

Judgment and execution against the bail, the bail taken in execution satisfies the judgment and therein damaged, Breach of promise.

By virtue of which precept issuing out of the Court aforesaid, the said F B afterwards and before the said next Court of the Tower aforesaid (that is to say) the fifth day of of Jan. in the ninth year abovesaid, him the said I G at the said Tower of London did take and arrest, and him the said I G in prison there did detain, until the said I G the aforesaid nine pounds fifteen shillings and six pence had paid for his deliverance to be had: And so the said I G, by reason of the Banucaption aforesaid was very much damaged.

Notwithstanding the said I S his promise and assumption aforesaid little regarding, but meaning and fraudulently intending him the said I G of the aforesaid twenty pounds craftily and subtilly to deceive and defraud, the said twenty pounds, or any penny thereof unto the said I G, although the said I S to do this, by him the said I G afterwards (that is to say) the twentieth day of March, in the year of the reign of the said Lord the King that now is, the eleventh, and often afterwards at London in the Parish and Ward aforesaid hath been required, hath not paid or any wayes contented, but the same to him to pay hath refused, and as yet doth refuse, to the damage of the said I G of forty pounds, and thereof he bringeth his suit, &c.

Defendant pleads he did not assume.

Trover brought by an Administrator.

Mich. 9. Jac. roll 3124. Brownlow. Rot. ff. W A late of, &c. and E R late of, &c. were attached to answer A L Widow, Administratrix of the Goods and Chattels which were of I L, who died intestate, &c. of a Plea, that whereas the said A, after the death of the said I, by reason of the granting of the administration aforesaid, was possessed of certain Cattel of the price of 100 l. and of Chattels to the value of 200 li. as of the Cattel and Chattels which were of the said I at the time of his death. And so thereof being possessed, &c. notwithstanding the said W and E knowing the Cattel and Chattels aforesaid to be the Cattel & Chattels which were of the said I at the time of his death, and unto her the said A, by reason of the granting of the administration aforesaid of right to belong, &c. have converted and disposed in hinderance of the administration of the Cattel and Chattels aforesaid, to the damage of the said A of three hundred pounds: And whereupon the said A, (to whom the administration of all the Goods and Chattels which were of the said I at the time of his death, by R, by the providence, &c. C Archbishop, &c. the twenty fourth day of May, in the year of our Lord 1610. at London in the Parish of St. Mary Bow in the Ward of Cheap, after the death of the said I was committed) by her Attorney makes the Count, &c. and sheweth the Letters of Administration, &c.

Case in trover brought by an Executor for Cattel lost in the life of the Testator. Possession.

Trover.

TRin. 13. Jac. roll 643. Brownlow. Norff. ff. W L late of, &c. was attached to answer I G Executor of the Testament of R G of a Plea, that whereas, &c. And whereupon the said I by H S his Attorney complaineth, that whereas the said R in his life time (that is to say) the twentieth day of Sept. in the year of the reign of the Lord the King that now is, of England the fifth, at W had been possessed of certain Cattel, to wit, one Bull, five Cows, and two Hysers of the price, &c. as of his proper Cattel, and so thereof being possessed, afterwards (that is to say) the same day and year at W aforesaid the Cattel aforesaid out of his hands and possession had casually lost, which Cattel afterwards in the life time of the said R, (that is to say) the said twentieth day of Sept. in the fifth year abovesaid, at W aforesaid, to the hands and possession of the said W by finding came. Notwithstanding the said W knowing the Cattel aforesaid to have been the proper Cattel of the said R, and to him the said R in his life time of right to belong & appertain; And meaning him the said R in his life time in this behalf craftily & subtilly to deceive & defraud, the Cattel aforesaid to the said R did not deliver (although to this by the said R in his life time he had been often therunto required) but the said W afterwards, in the life time of the said R, that is to say, the twenty fifth day of S, in the fifth year abovesaid at W aforesaid, those Cattel to the proper use

T 20. Jac. roll 668. Trover for a bill penal brought against an obligor and averre the debt unpaid.

use and benefit of the said W did convert and dispose in hinderance of the execution of the Testament aforesaid, to the damage of the said J of forty pounds, And thereof he bringeth his suit, &c. And he bringeth here into Court the Letters Testamentary of the said R, by which, &c. And thereof to have the Administration, &c.

Conversion.

And the said W by T B his Attorney cometh, and defendeth the force and wrong when, &c. and saith no Action, &c. because he saith, that well and true it is that the said R in his life time (that is to say) the said twentieth day of S, in the year of the reign of the said Lord the King that now is, the fifth, at W aforesaid had been possessed of the Goods and Chattels aforesaid; in the Declaration aforesaid specified, as of his proper Goods and Chattels. And being so thereof possessed afterwards (that is to say) the same twentieth day of S, in the fifth year abovesaid, the Goods and Chattels aforesaid out of his possession did casually loose: And that afterwards (that is to say) the same twentieth day of S, in the fifth year abovesaid, the Goods and Chattels aforesaid, to the hands and possession of the said W came, as the said I above against him hath declared.

The Defend. confesseth the Count, but furthermore he pleads a release of the Testator.

But the said W further saith, that he of the Goods and Chattels aforesaid, in form aforesaid, being possessed, the aforesaid I and R in the life time of the said R (that is to say) the two and twentieth day of Septemb. in the fifth year abovesaid, at W aforesaid by his certain writing of release, which the said W, with the seals of the said I and R sealed, bringeth here into Court, the date whereof is the same day and year, they did acquit, exonerate, and discharge the said W of all and all manner of Actions, Suits, Plaints, Quarrels, Strifes, Trespasses, Controversies, Debts, Duties, or Demands whatsoever at any time depending between the said I G and R G and him the said W, from the beginning of the world until the day of the date of the said Writing of release, as by the said Writing more plainly appeareth. And this he is ready to prove, whereupon he prayeth Judgement if Action, &c.

And the said I by any thing before alledged from having his Action brought not to be barred, because he saith, that the said Writing of release is not the deed of the said I and of the said R: And this he prayeth may be enquired of by the Country: And the said W likewise, &c.

Replication that the release is not the deed of the Testator and Executor.

TRin. 13. Jac. roll 604. Brownlow H. I C late of, &c. to answer E C of a Plea, that whereas, &c. And whereupon the said E by E L his Attorney complaineth, that whereas one I N Widow, the seventeenth day of Jan. in the year of the reign of the Lady Eliz. late Queen of England, the twenty fifth, was seised of the Mannor of W in the County aforesaid, in her Demefne as of fee, within which Mannor, with the appurtenances, there are, and the aforesaid seventeenth day of Jan. in the year of the reign of the said late Queen, the twenty fifth abovesaid, and also from the time whereof the memory of man is not to the contrary, there have been divers customary Lands and Tenements, parcel of the Mannor aforesaid, by the whole time aforesaid demised and demisable by copy of the Rolls of the Court of the same Mannor, by the Lord or Lady of that Mannor for the time being, to what person or persons: soever are willing to take the same for the term of one, two, or three lives in possession at the will of the Lord or Lady, according to the custom of the said Mannor.

Trespass on the Case brought by a Commoner against an stranger for digging a pit in the Common, where by the Horse of the Plaintiff depasturing on the Common, fell into the pit and there died.

And whereas also the said I of the Mannor aforesaid, with the appurtenances, in form aforesaid being seised afterwards (that is to say) at the Court of the said I of her Mannor aforesaid, holden at that Mannor the aforesaid seventeenth day of January, in the year of the

Grant by Copy

*Hill. 15. Jac.
Roll. 3077.
Cromer against
Audley, an
Action upon
the case for
interruption
of Common*

Custom of
the Mannor,
that a Lease
be made unto
three for lives
successively.

The first per-
son named in
the copy en-
ters, and is
seised for life.

The second
person in the
copy enters,
after the death
of the first
Lessee in his
Remainder
for life.
Prescription
of the Lords
of the Man-
nor, and such
as have an
estate there-
unto, for Com-
mon Appurte-
nant.

reigne of the said late Queen, the twenty fifth abovesaid, by copy of the Rolls of Court of the same Mannor, did grant to I C, E C, and R C, the Sons of the said I C, one Tenement containing six Acres of Land, four Acres of Meadow, and five Acres of Pasture, with the Appurtenances in W aforesaid, which said Tenements with the Appurtenances are, and from the whole time aforesaid, were customary Tenements of the said Mannor, and parcell of that Mannor, to have and to hold the Tenements aforesaid, with the Appurtenances unto the said I E and R for terme of the life of them, and the longest liver of them successively, at the will of the Lord, according to the custome of the said Mannor: And whereas also within the said Mannor, with the Appurtenances whereof, &c. there hath been had, and from the time, whereof the memory of man is not to the contrary, such hath been the custome, that if any customary Lands or Tenements, parcell of the Mannor aforesaid, by the Lord or Lady of that Mannor, were by one copy of the Rolls of Court, of the said Mannor granted to three persons in one copy nominated, to have and to hold to them for terme of the life of them, and of every of them longest living, successively, at the will of the Lord or Lady, according to the custome of the said Mannor, that then that person which shall be first nominated in such copy shall have and hold, and from the whole time abovesaid, hath been accustomed to have and hold all those customary Lands and Tenements by such copy so granted to him alone during his life, and that after the death of the said first person, then that person which shall be second named in the same copy, shall have and hold, and from the whole time aforesaid hath been accustomed to have and to hold all those customary Lands and Tenements, by such copy so granted to him alone, during his life, and that after the death of the same second person, then the third person in the same copy named, shall have and hold, and from the whole time abovesaid, hath been accustomed to have and to hold all those customary Lands and Tenements, by such copy so granted to him alone, during his life, by which, and by virtue of the grant aforesaid, the said I C being the first person in the said copy named, that is to say, the one and twentieth day of January, in the yeare of the reigne of the said late Queene in the five and twentieth abovesaid, into the Tenements aforesaid with the Appurtenances did enter, and was thereof solely seised in his demesne of freehold, for terme of his life, at the will of the Lord, according to the custome of the said Mannor, the remainder thereof, after the decease of the said I C to the said E C for terme of his life, at the will of the Lord, according to the custome of the said Mannor, the remainder thereof further as above is limited, in forme aforesaid belonging, the said I C, so thereof being seised, the remainder thereof, in forme aforesaid belonging, the said I C, afterwards that is to say, the four and twentieth day of February in the yeare of the reigne of the Lord the King that now is the eighth, at W aforesaid dyed, after whose death the said E, being the second person in the said copy named, afterwards, that is to say, the twelfth day of March, in the yeare of the reign of the Lord the King that now is the eighth abovesaid, into the Tenements aforesaid with the Appurtenances, as in his said Remainder thereof by virtue of the grant aforesaid did enter, and was, and as yet is thereof solely seised in his demesne as of freehold for terme of his life, according to the custome of the said Mannor. And whereas also the said I, and all those whose estate the said I, the said seventeenth day of Jan. in the yeare of the reign of the said late Queen the twenty fifth abovesaid, had, in the Mannor aforesaid, with the appurtenances, from the time whereof the memory of man is not to the contrary, have had, and were accustomed to have, for themselves and their customary Tenants of that Mannor, Common of pasture in three hundred acres of Pasture, called Mendripp Common, with the appurtenances, in E and W aforesaid, in the County aforesaid, for all their Horses and Sheep upon the customary Tenements aforesaid, parcell of the said Mannor,

Hanno, leuant and couchant in every year, at all times of the year, as to the customary Tenements aforesaid of that Hanno belonging, by which the said E, afterwards, that is to say, the sixteenth day of August, in the year of the reign of the said Lord the King that now is the tenth, then and as yet being a customary Tenant of the said Hanno, of the Tenements aforesaid, with the Appurtenances, by virtue of the grant aforesaid, by copy of the Rolls of Court of the said Hanno, by the said I in forme aforesaid made, at W aforesaid put a certaine Mare of the said E, upon the customary Tenements of the said E, then leuant and couchant upon the said three hundred Acres of Pasture called M Common, with the Appurtenances in W aforesaid, to feed upon the grasse in the said three hundred Acres of Pasture, with the appurtenances, then growing, by using his Common of pasture there, the said I C afterwards, that is to say, the said sixteenth day of August, in the year of the reign of the said Lord the King that now is, the tenth aforesaid, at W aforesaid did maliciously dig a certain deep pit in the aforesaid three hundred Acres of Pasture, called M Common, to the great danger of the cattel Commoning in the said Common, whereby the Mare aforesaid of him the said E of the price, &c. the grasse in the said three hundred Acres of Pasture, called M Common in W aforesaid, then feeding, by using his Common aforesaid, afterwards (that is to say) the said sixteenth day of August, in the year of the reign of the said Lord the King that now is, the tenth aforesaid, at W aforesaid, fell into the pit aforesaid, and in the pit aforesaid died, to the damage of the said E of twenty pounds, and thereof he bringeth his suit, &c. the Defendant pleads not guilty.

Commoner uses his Common.

TRin. 13. Jac. Roll 2148. Brownlow. Leic. ss. E B late of, &c. was attached to answer J F of a Plea, &c. And whereupon the said J by R S his Attorney complaineth, that whereas the said J the first day of April, in the year of the reign of the Lord the King that now is, of England the sixth, and alwayes afterwards hitherto hath been seised and as yet is seised of and in one Messuage, twenty acres of Land, three acres of Meadow, and five acres of Pasture, with the appurtenances, in W in the County aforesaid, in his Demaine as of fee.

Trespass on the case brought by a Commoner against his Lord for inclosing of the Common and making Conny-berries in it, and depriving the Plaintiff of his Common, and of the profit thereof.

And the said I, and all those whose estate the said I now hath in the same Tenements, with the appurtenances, from the time whereof the memory of man is not to the contrary, have had, and were accustomed to have yearly for themselves, their Tenants and Farmers of the said Tenements, with the appurtenances, Common of pasture for their Beest, Beasts, Cows, Heyfers, Pearling Calves, and other Stears, not exceeding the age of four years, and for their Sheep, in and upon the Tenements aforesaid, with the appurtenances, leuant and couchant in W aforesaid, in a certain place there called the Beasts Pasture, containing by estimation two hundred acres of Pasture in manner and form following, that is to say, for their Beest, Beasts, Cows, Heyfers, Pearling Calves, and other Stears, not exceeding the age of four years, in every year, from the third day of May, until the greater part of the blades growing in the Corn fields of W aforesaid, was mowed, bound, and carried away, and after that the greater part of the blades aforesaid, so mowed, bound, and carried away, then for his Sheep aforesaid, the same year leuant and couchant upon the Tenements aforesaid, with the appurtenances, until the feast of the Annunciation of the blessed Virgin Mary, as to the Tenements aforesaid, with the appurtenances belonging.

Notwithstanding the said E B well knowing the premises aforesaid, maliciously intending him the said I not only of his Common of Pasture aforesaid in the aforesaid place called the Beasts pasture aforesaid, to disinherit, but also of the profit of his Common of Pasture aforesaid, with his Cattel aforesaid,

afozesaid, in form afozesaid received, to deprive and frustrate, afterwards, that is to say, the thirtieth day of September, in the year of the reign of the said Lord the King that now is, the sixth abovesaid, at W afzesaid, three acres of Pasture, called Highthornes, parcel of the said Pasture, called the Beasts Pasture, inclosed with a certain great ditch, and the said three acres of Pasture so inclosed, from the afzesaid thirtieth day of September, in the sixth yeare abovesaid hitherto, with the said ditch inclosed did keepe, and the said three Acres of Pasture, so as afzesaid inclosed, as a Warren for the nourishing and keeping of Conies, did keep, and Cony-Berries then and there for the breeding of Conies and Rabbits, in and upon the afzesaid three Acres of Pasture, did make and erect, and did cause to be made and erected, and in the afzesaid three Acres of Pasture so inclosed, two hundred paire of Conies and Rabbits then and there did gather and put, and the said Conies there greatly have multiplied and bred, and the Conies and Rabbits coming of those Conies there breeding and multiplying, the grasse as well in the said place called the Beasts Pasture, as in the said three Acres of Pasture called Highthornes, have so much eaten up, troden downe, and consumed, so that the said I, the possit of his said Pasture, which he by a long time with the Cattel afzesaid, had and received, could not take, enjoy, and use, nor as yet can, to the great prejudice of the said I, and to the manifest disinheriting, deprivation of the said I, of his Common of Pasture afzesaid, to the damage of the said I of forty pounds, and thereof he bringeth his suite, &c. the like, Roll 2150. between Milner and Ballard. Defendant pleads not guilty in both Actions.

The damage
of the Plain-
tiff.

Judgement for the Plaintiff.

Trespasse on
the case for
erecting a
Mill, next
another Mill,
whereby the
ancient Mill
is stopped by
the overflow-
ing thereof.
Prescription,
Trin. 4. Jac.
Rel. 718. be-
tween *Truman*
and *Rashwood*
the like.
Trin. 11. Hil.
7. Rol. 324.
Derb. M. Ab-
bot of *Derby*,
against the
Abbot of the
Monastery of
Burton upon
Trent, case for
not repairing
and scouring.
Damage of

the Plaintiff.

TRin. 13. Ja. Roll. DCCXVII. Brownlow, Yorke ff. R. H. late of, &c. and I D late of, &c. were attached to answer R E of a Plea, &c. and whereupon the said R by L H his Attorneys complaineth, that whereas the said R is seised of one Water-Mill with the Appurtenances in Middleton, in the County afzesaid, called C Mill, in his demesne as of fee, and that the said R, and all those whose estate the said R now hath in the said Mill, from the time whereof the memory of man is not to the contrary, have, and were accustomed to have a certaine Watercourse, running from the Towne of P, in the County afzesaid, unto the Mill afzesaid, for serving of that Mill, and with the Water thereof, to the said Mill running at their pleasure, there to grinde so often as need should require: The said R and I meaning and maliciously intending him the said R, of the possit of his Mill afzesaid, to deceive and defraud, the twentieth day of January, in the yeare of the reigne of the said Lord the King that now is of England, &c. the twelfth, at M within ten perches of the said Mill of the said R, on the backside of the said Water-course from the said Mill, flowing and running a certaine Water-Mill in the ground, there where never any was before, have new builded and erected, and the same Mill so new builded, erected, and fixed, the said Water-course, to and from the said ancient Mill of the said R running, have so hindred and stopped, that the Water of its ancient and right course, being hindred unto the wheele of the said ancient Mill of the said R, did so much reflow and returne, that the said Mill from the said twentieth day of January, untill the day of the bringing of the Driginnall Writ of the said R, that is to say (such a day and yeare) could not in any wayes grinde, whereby the said R, of the possit and use of his Mill afzesaid, by the whole time afzesaid was hindred to the damage of the said R of 100 l. and whereof, &c.

Verdict and Judgement for the Plaintiff. See M. 22. H. 6. 14. fo. 14. 2. by Nenton, agree with this Declaration.

TRin. 13. Ja. Rol. 1976. Brownelaw, Lincolne ff. Jeremy Allam was at-
 tached, &c. to answer A. M. Gentleman, one of the Attorneys; &c. of a
 Plea of Trespasse upon the case, &c. And whereupon the said A in his pro-
 per person, complaineth, that whereas the said A, one of the Attorneys of the
 Court of the Lord the King of the Bench aforesaid, for twelve yeares now
 last past, was, and as yet is, and for the faithfull exercising of his office of an
 Attorney, by the bond of his oath by him in this behalfe perfozmed, was
 bound, that he should not commit any falsity, nor to any one should consent to be
 committed, within the said Court of the Bench aforesaid, and if he should
 know any to be committed, he should give notice thereof to the cheif Justice of
 the said Lord the King, of the common Bench aforesaid, or others the Justices
 of the same Bench, that reformation thereof might be made, that he
 should defer no sute for gaine or malice, he should increase no fees, but that
 he should be contented with the ancient and accustomed fees, forraigne Pleas
 he should not pleade, and forraigne Suits he should not prosecute unjustly to
 the damage of any man, but such as should be convenient to order of Law,
 and his owne conscience, that he should seale all Prozesse by him prosecuted
 out of the said Court, with the seale of the same Court, or the said Lord the
 King, and the cheife Justice aforesaid thereof, should procure to be satisfied:
 And whereas also the said A, by the whole time aforesaid, wherein he, one of
 the Attorneys of the said Court of Common Bench aforesaid had been, well,
 honestly, and according to the forme of his oath in all things, himselfe beha-
 ved, and had carried, and all busineses in the Court of the said Lord the
 King, here and there for his Clients, well, honestly, diligently, and faithfull-
 ly as their Attorney, as to his ability and knowledge, by the whole time afoze-
 said, without any negligence, pravity, falsity, or deceit whatsoever, hath done &
 expedited, by reason whereof the said A, as Attorney of the said Court of the
 Lord the King of the Common Bench, divers great gaines & profits of divers
 people of the said Lord the King, his Clients in the Court here, following, and
 presenting their causes, by the whole time aforesaid, towards his maintenance,
 and the sustentation of his family, from time to time did gaine and obtaine,
 notwithstanding the said I, not being ignorant of the Premises, of his meere
 and wicked malice, before thought, meaning the good name, fame, and opinion
 of the said A, to hurt, defraet, make woyle, and altogether destroy, and him
 the said A, into hatred and evill opinion, and into scandall and infamy a-
 mongst his neighbours, and other faithfull Subjects of the said Lord the
 King now to bying, the last day of December, in the yeare of the reign of the
 Lord the King that now is of England, the twelfth, at S, then and there having
 communication with the same A, of his place and office of an Attorney, in the
 Bench aforesaid, in the presence and hearing of very many Subjects of the
 said Lord the King that now is, certaine false scandalous, opprobrious, and
 malicious words and lyes, openly and publickly did say, speak, utter, and
 publish, that is to say, thou (him the said A meaning) art a knave, a rascall;
 and rogue, and thou (him the said A againe meaning) dost deale falsely in
 thy place (meaning the place of the said A, one of the Attorneys of the Court
 aforesaid) and hast been turned over the Bar for the same (the Bar of the
 Court of the said Lord the King of the common Bench here meaning) and
 I (the said I meaning) will prove it, by reason of the speaking and uttering
 of which false and scandalous words, the said A is not only in his good name,
 credit, and estimation aforesaid, of which before he had, and in doing his law-
 full and honest busineses, much hurt and made woyle: but also into so
 great scandall, infamy, and opprobry amongst his Clients and other leige peo-
 ple of the said Lord the King that now is, brought, that divers his Clients
 whose causes the said A, as their Attorney in the same Court, here did prose-
 cute and defend, and divers other leige people of the said Lord the King, him
 the

Case brought
 by an Attorney
 for slanderous
 words,

The oath of
 an Attorney, of
 the common
 Bench.

The slander of
 the person.

Communica-
 tion.
 The words,

The Damage
 of the Plain-
 tiff.

the said A of being their Attorneys in the same Court here, to prosecute and defend their Causes, before that willing and intending to retain, giving credit to the false and scandalous words aforesaid, after the speaking and uttering of the same scandalous words, themselves from the company of the said A have withdrawn, and with him the said A any wayes to intermeddle or to retain the same A to be their Attorneys in the Bench aforesaid have altogether refused, and as yet do refuse, to the damage of the said A of one hundred pounds, and thereof he bringeth his suit, &c. Pledges, &c.

Defendant pleads not guilty.

TRin. 13. Jac. 1971. Brownlow. ff. R B Knight, late Sheriff of the County aforesaid, was attached to answer N S one of the Attorneys, &c. trespass upon the case, &c. And whereupon the said N in his proper person complaineth, that whereas one R D (that is to say) the ninth day of April, in the year of our Lord 1603. at Bodmin by his certain writing obligatory acknowledged himself to be bound unto the said N in seventy pounds, to be paid to the said N when he should be thereunto required, which said seventy pounds the said R B, although he hath been often required, hath not paid unto the said N, for the recovery of which said seventy pounds the said N the first day of July, in the tenth year of the said King, then and continually afterwards, and as yet being one of the Attorneys of the said King of the Common Bench, had procured out of the Court of Common Bench aforesaid here (that is to say) at Westminster in the County of Midd. a certain writ of Attachment of privilege against the said R D of a Plea of debt, directed to the then Sheriff of Cornwall, by which said writ the said now King had commanded the said Sheriff, that he should attach the said R D, and him should safely keep, so that he should have his body here (that is to say) at Westminster aforesaid, on Thursday next after the morrow of all Soules, to answer the said N one of the Attorneys of the Court of the said King of the Common Bench here, according to the liberties and privileges of the same Court for such Attorneys, and other Ministers of the same Bench, from the time whereof the memory of man is not to the contrary, used and approved in the same of a Plea of debt: And that he should have there that writ, which said writ the said N S afterwards and before the return of the same writ (that is to say) the tenth day of October, in the year of the reign of the said now King, the tenth aforesaid, at B in the said County of C, to the said R B then being Sheriff of the said County of Cornwall, delivered in form of law to be executed, by reason of which said writ the said R B afterwards (that is to say) the twentieth day of October, in the tenth year aforesaid of the said King, then being Sheriff of the said County of Cat B aforesaid, the said R D for the cause aforesaid did take and arrest, and him the said R D under his custody then & there had & kept: and the said R D under the custody of the said late Sheriff for the cause aforesaid, in form aforesaid being, the said R B afterwards (that is to say) the twentieth day of December, in the year aforesaid of the said King then being Sheriff of the said County of C at B aforesaid, the said R D out of his custody, without the licence and contrary to the will of the said N, the said N of his said debt of seventy pounds not being satisfied, did suffer freely to go at large whither he would, to the manifest danger of losing of the debt aforesaid, for that he doth lurk and wander in places to the said N unknown, so that the said N cannot attach the said R D by any process out of the Court aforesaid, whereupon he saith, that he is the worse, and hath Damage to the value of one hundred pounds, and thereof he bringeth his suit, &c.

Pledges to prosecute, I D, R R.

Defendant pleads not guilty.

Case against a Sheriff for an escape upon an attachment of privilege by an Attorney. Recital of the Obligation.

Recital of the Attachment of privilege.

Delivery of the Writ to the Sheriff.

TRin. 5. Eliz. roll 1056, 02 1556. W. A B to answer C D, one o the ^{Judgment for} Attorneys, &c. certain false and scandalous words of the said ^{words. Note} Plaintiff to one I S Esquire, in the presence of very many leige-people of the said Queen (such a day at W publickly and openly did speak in these English words following (that is to say) take heed of him, he is the falsest knave in England, and by Gods blood he will cut your throat.)

Upon demurrer adjudged for the Plaintiff.

MIch. 11. Jac. Roll. 711. Between Frith and Dauncer. Case; is a perjured fellow, and other words. As to part the Defendant pleads not guilty; as to the residue saith, that the Plaintiff did recover damages for the same words in the Kings Bench, and traverseth, that he is guilty at any other time after.

Issue thereupon.

Potter against Tower. Roll 708. Case: Thou hast kept false Weights. Special Writ.

Hill. 9. Iac. Roll 820. Trespasse on the case for Welsh words and special justification.

TRin. 19. Jac. Roll 2920. Brownlow. Norff. ff. Smith against Wentworth. ^{Trespas on the case against a Sheriff for an escape.} Afterwards and befoze the return of the said Writ (that is to say) the same sixteenth day of September, in the seventeenth year abovesaid, at H aforesaid, the said Plaintiff not being satisfied of the debt aforesaid, without the consent, command, and will of the said Plaintiff, and without any security for the appearance of the said R at the aforesaid morrow of all Soules, befoze the said Justices of the said King of the Common Bench aforesaid, to answer the said Plaintiff in the Plea aforesaid, did suffer freely to go at large whither he would, and the said R befoze the said Justices of the said King at Westminster aforesaid, at the said morrow of all Soules, according to the effect of the said Writ, he had not, whereby the said Plaintiff, not only in the prosecution of his said suit is much retarded and made worse, but also the said Plaintiff from obtaining of his debt aforesaid is altogether hindered and defrauded, and that debt hath totally lost; for that the said R lurketh, wandreth, and runneth in places to the Plaintiff unknown, so that the said R by any processe issuing out of any Court of the said King cannot be taken, to the damage, &c.

Trin. 19. Jac. Roll 1079. Case on escape against the Sheriff of Lond. upon a Pleint levied befoze them, and no security taken of the prisoner to appear befoze them to the Action.

Hill. 30. Eliz. Roll 1112. Nelson. Norff. ff. Edward Glemham late ^{Case for not making of a good assurance.} Hof. &c. to answer Tho. Meane of a Plea, that whereas the said E was seised in his Demesne as of fee, of and in half an acre of meadow, with the appurtenances, in W in the County aforesaid, And so thereof being seised, the said E the said half acre of meadow to the said T for six shillings eight pence of good and lawful money of England to be paid to the said E when he ^{Sale for money} should be thereunto required, afterwards, at Harleston had bargained and sold.

ff f

The

The said E in consideration thereof had assumed upon himself, and to the said T faithfully had promised, to make unto the said T and his Assignes a good and lawful assurance of the said half acre of meadow, with the appurtenances, when he should be thereunto required.

Notwithstanding the said E, meaning, and fraudulently intending him the said T of his bargain aforesaid to deceive and defraud, a good and lawful assurance of the said half acre of meadow, with the appurtenances, according to his promise and assumption aforesaid, in form aforesaid made, although to do the same he hath been often required, hath refused to make, and as yet doth refuse, to the damage of the said T of twenty marks, and thereof he bringeth his suit, &c. judgment for the Plaintiff, damages eleven pounds. See Hill. 21. Eliz. Roll 1417. for the like Action in the Office of Ford Whithonotary between Draper and Broughton. Judgment for the Plaintiff, damages six pounds thirteen shillings four pence.

Trespasse on the case upon an assumpsit to pay moneys for a Mare and certain goods sold. This action of case will prevent the wager of law of the defendant. Breach of promise.

TRin. 13. Jac. Roll 348. Brownlow. Leic. A. Tho. Wilson against Goodwin, &c. And whereupon the said T by E T his Attorney complaineth, that whereas the said T, the tenth day of November, in the eighth year of the said now King, at Belcon, at the special instance and request of the said W had sold and delivered unto the said W one ~~share~~ ^{piece} of colour black of the price of forty shillings of lawful money of England, (and other goods, &c.) to the value, &c. of like money of England, the said W in consideration thereof the same tenth day of November, in the eighth year abovesaid, at B aforesaid, upon himself did assume, and to the said T then and there faithfully promise, that he the said W the aforesaid several sums of money, in the whole amounting unto nine pounds and ten shillings of lawful money of England to the said T, when he should be thereunto required, well and faithfully would content and pay.

Special request

Notwithstanding the said W his promise and assumption aforesaid little regarding, but meaning and fraudulently intending him the said T in this behalf craftily and subtilly to deceive and defraud, the said nine pounds and ten shillings, according to his promise and assumption aforesaid, to the said T hath not yet paid, or any ways contented, although the said W the first day of September, in the twelfth year of the said King, and often afterwards at B aforesaid had been required, but the same to him to pay hitherto hath refused, and as yet doth refuse, to the damage of the said T of, &c. and thereof he bringeth suit, &c.

Barre. Def. confesseth the promise, and further pleads payment, according to the promise.

And the said W when, &c. And saith no Action, &c. because he saith, that well and true it is, that he assumed upon himself in manner and form as the said T above against him doth complain, but the said W further saith, that he, after the promise and assumption of him the said W as aforesaid made (that is to say) the said first day of September, in the twelfth year of the said King, upon request to the said W by the said T then made, did pay unto the said T the said nine pounds and ten shillings, which unto the said T upon the same day he ought to have paid, according to his promise and assumption aforesaid (that is to say) at B aforesaid: And this he is ready to prove, whereupon he prayeth judgement, if a dion, &c.

See afterwards the like plea 256.

AND the said T &c. not to be barred, because he saith, that the said W did not pay unto the said T the said nine pounds and ten shillings, in manner and form as the said W above hath alledged, and of this he putteth himself upon the Country: And the said W likewise, &c.

Replication that he did not pay.

TRin. 13. Jac. roll 3490. Brownlow. Malbon against Cary. That whereas the said I the third day of January, in the eighth year of the said King at the City of B, in consideration that the said R had sold and delivered unto the said I divers Merchandizes (that is to say) ten barrels of figs to the value of thirteen pounds five shillings two pence of lawful money of England, did assume upon himself, and to the said R then and there faithfully promised, that he the said I the said thirteen pounds five shillings two pence for those Merchandizes, unto the said R well and truly would pay and content upon the twentieth day of April then next following.

Trespass on the case, as above.

Promise to be paid at a day certain.

Notwithstanding the said I his promise and assumption aforesaid not regarding, but meaning and fraudulently intending him the said R of the aforesaid thirteen pounds five shillings two pence craftily and subtilly to deceive and defraud, the said thirteen pounds five shillings two pence to the said R, according to his promise and assumption aforesaid, hath not as yet paid, but the same to him to pay hath altogether refused, and as yet doth refuse, to the damage of the said R of twenty pounds, and thereof he bringeth his suit, &c.

No request.

AND the said I saith no Action, because he saith, that at the time of the sale and delivery of the Merchandizes aforesaid, by the said R unto the said I, above supposed to be made, the said R M, and one H L of the City aforesaid Mercer, were jointly co-partners out of whatsoever cause and contract, as well of the said Merchandizes as of all and singular other Merchandizes and Wares by them or either of them bought, as of all and singular other Merchandizes and Wares by them or either of them sold. And that after the aforesaid time of the promise and assumption aforesaid, above supposed to be made (that is to say) the seventh day of February, in the year of our Lord 1614. the said H L at the City of B aforesaid, by his certain Writing of release (which the said I, sealed with the seal of the said H, bringeth here into Court) the date whereof is the same day and year, by the name of H L of the City of B Mercer, had remised, released, and for himself his Heirs, Executors, and Administrators for ever quite claim unto the said I by the name of I C of the City of B aforesaid Grocer, all and all manner of Actions, Suits, Quarrels, Debts, Debates, Trespasses, Accounts, Judgments, Executions, and Demands whatsoever, which the said H then had, or at any time then afterwards might have against the said I his Heirs, Executors or Administrators for any matter or cause whatsoever, from the beginning of the world until the day of the date of the same Writing of release, as by the said Writing more plainly appeareth: And this he is ready to prove, whereupon he prayeth Judgment if Action, &c.

The Barre. The Defend. pleads that at the time of the sale of the wares the Plaintiff and an stranger were co-partners, and that the stranger released to him all demands, &c. Release of one Co-partner.

AND the said R, &c. not to be barred, because by protestation he saith that the aforesaid Merchandises, the aforesaid time of the sale and delivery of the same Merchandises to the said I by the said R were the proper Merchandises of the said R, without that that the said R and the said H L at the time of the sale and delivery of the said Merchandises were co-partners

The Plaintiff by protestation replies, that the goods were his proper goods, and travel with the out copartnership.

out of whatsoever cause and contract, as well of the same Merchandizes, as of all and singular Merchandizes and Wares, by them or either of them bought, as of all and singular other Merchandizes and Wares, by them or either of them sold, as the said I hath above alleadged, and this he is ready to prove, whereupon he prayeth judgement, and his damages by occasion of not performing of the promise and assumption aforesaid, to him to be adjudged, &c. this replication is naught, but the Roll is as this is.

Rejoynder,
that at the
time of the
sale of the
Wares, the
stranger and
Plaintiff were
copartners.

And the said I as at first saith, that the said R and H, at the time of the sale and delivery of the Merchandizes aforesaid, were jointly copartners out of whatsoever cause and contract, as well of the same Merchandizes, as of all and singular other Merchandizes and Wares, by them or either of them bought, as of all and singular other Merchandizes and Wares, by them or either of them sold, as he hath above alleadged, and of this he putteth himselfe upon the Country, &c.

Trespasse on
the case for
not making of
an obligation,
for the sure
delivery of
halfe a fother
of Lead, sold
unto the
Plaintiff by
the Defen-
dant.

TRin. 13. Jac. Roll 3434. Brownlow. Derby ff. A I against F G. And whereupon the said A by E A his Attorney complaineth, that whereas the said F, the foure and twentieth of December, in the twelfth yeare of the said King at H aforesaid, in consideration of eighty shillings of good and lawfull money of England, to him by the said A in hand paid, did assume upon himselfe, and to the said A, then and there faithfully promise, to deliver unto the said A, halfe a fother of lead, at the Feast of Saint John Baptist then next following, and for the surer delivery thereof, upon the said Feast of Saint John Baptist, that he the said F would at any time before the said Feast, when he should be thereunto required by his certaine writing obligatory, become bound unto the said A in eight pounds of lawfull money of England, to be paid unto the said A, when he should be thereunto required; Notwithstanding the said F, his promise and assumption aforesaid, not regarding, but meaning him the said A in this behalfe, craftily, and subtilly, to deceyve, and defraud, before the said Feast of Saint John Baptist, did not become bound unto the said A, by his writing obligatory, for the delivery of the said halfe fother of Lead, according to his promise and assumption aforesaid, although the last day of December, in the twelfth yeare abovesaid, and often afterwards at H aforesaid, was required to become bound by his writing obligatory, unto the said A, for the delivery of the said halfe fother of Lead, hath altogether refused, and as yet doth refuse, to the damage of the said A of twenty pounds. And thereof he bringeth suit, &c.

Breach of
promise.

Defendant pleadeth that he did not assume.

Trespasse on
the case upon
a promise, in
consideration
of so much
money given
in hand, and
so much to be
given at the
delivery of
the graine, he
promised to
deliver the
graine at such
a day.

TRin. 13. Jac. Roll. 2155. Brownlow, Norwich ff. C G against T C, And whereupon the said C by R C his Attorney complaineth, that whereas the said T the six and twentieth day of September in the tenth year of the said King at N, had bargained and sold unto the said C fifty Combes of good and Merchandable Barley, according to the rate of eight shillings for every Combe thereof, amounting in the whole, according to that rate to twenty pounds, the said T, the same twenty sixth day of S. at N aforesaid, in consideration of six pence to him by the said C, there in hand paid and twenty pounds unto the said T, by the said C, upon the delivery of the said Barley to be paid, did assume upon himselfe, and to the said C then and there faithfully promise that he the said T the said fifty Combes of Barley unto the said C, at, or before the Feast of all Saints then next following, at the then dwellinghouse of the said C, in M aforesaid, would deliver. Notwithstanding the said T, his promise and assumption aforesaid, not regarding, but meaning him the said C in this behalfe, craftily, and subtilly, to deceyve and defraud the said fifty Combes of Barley, or any parcell thereof unto the said C, although the said C was alwayes ready upon the delivery of the said fifty Combes

Combes of Barley in forme aforesaid, to pay unto the said T, the aforesaid twenty pounds, that is to say, eight shillings for every Combe, of the said fifty Combes of Barley, according to his promise and assumption aforesaid) did not deliver, but the same unto the said C, as yet to deliver hath denyed, and as yet doth deny, to the damage of the said C of forty pounds, and thereof he bringeth suit, &c.

And the said T no action, because he saith that after the promise and assumption aforesaid, above supposed to be made, and before the said feast of all Saints then next following, that is to say, the twentieth day of October, in the tenth yeare abovesaid, of the said now King, the said C at N aforesaid, him the said T of his promise and assumption aforesaid, did discharge and release, and this he is ready to prove, &c. If Action, &c.

Thomas Harries.

And the said C not to be barred, because he saith that he did not discharge nor release the said T of the promise and assumption aforesaid, in manner and forme as the said T above hath alleadged, and of this he putteth himselfe upon the Country, &c.

After 19. Eliz. Roll. 1474. Forde, Norff. ss. Whereas H B Knight, in the Court before the Justices of the Common Bench at Westminster, had exhibited against E I, one of the Attorneys of the Court of Common Bench, his certaine Bill, for that that the said H, the twentieth day of May in the seventeenth yeare of the said Queen, and long before, and continually afterwards, hitherto was, and as yet is seised of one Water-Mill, and ten Acres of Meadow with the Appurtenances in O, in the County aforesaid, were adjoining to a certaine River there.

to grinde, and the Land of the Plaintiff adjoining to the said Mill is surrounded, &c.

And whereas also the Water of that River, from the time whereof the memory of man is not to the contrary, by a right and due course unto the Mill aforesaid was wont to run, the said E maliciously meaning and intending the said H, as well of the use, profit, and commodity of his said Mill, as of the aforesaid ten Acres of Meadow wholly to deprive, the said twentieth day of May, in the seventeenth yeare abovesaid, and continually afterwards by the space of eleven dayes then next following, the ancient course of the Water of the River aforesaid, at O aforesaid, with a certaine Sluce there on the back-side, that River between the said Mill, and the said ten Acres of Meadow lately erected, did obstruct, by reason of which obstruction the Mill aforesaid, for defect of the Water of the River aforesaid, by the time aforesaid could not grinde; And also the Water of that River, the Want of the same towards the said ten acres of Meadow overwhelming the said ten Acres of Meadow wholly overflowed, where, by the said H, the profit and commodity, as well of his Mill aforesaid, as of the said ten Acres of Meadow, by a long time, that is to say, from the said twentieth day of May, in the seventeenth yeare abovesaid, untill the first day of June then next following, did loose, to the damage of the said H of forty pounds.

And thereof he bringeth suit, &c.

Rin. 13. Jac. Rot. 796. Brownlow. Somerset, ss. WM late of, &c. T c. I H, &c. And whereupon the said I by WC his Attorney complained consideration that the Plaintiff would pay unto the Defendant such a summe before due day of payment, he promised to deliver the Bill, or sufficient release.

Barre. Defendant pleads, that before the promise, and after the day of the delivery of the graine, the Plaintiff discharged him of his promise. Replication that the Plaintiff did not discharge, &c.

Trespasse upon the case against an Attorney for erecting a Sluce on the backside of a River, whereby the Mill of the Plaintiff is stopped

H. 15. Ja. Rol. 401, Brownlow, Burcot against Ward, Case for diverting an ancient Water-course, of Water adjoining to a Mill. Judgement for the Plaintiff by saying nothing, damages, ten pounds six shillings eight pence.

Trespasse on the case upon a promise in

eth,

meth, that whereas the said J, the twelfth day of August, in the yeare of the reigne of the Lord the King that now is the tenth, at W, by his certaine Bill obligatoꝝ had bound himsele, his Executors, and Administratoꝝ, unto the said W in nine pounds, foꝝ the payment of ninty shillings of lawfull mony of England, upon the fourteenth day of August then next following, the said W, in consideration that the said I, the said ninety shillings, upon the nineteenth day of January then next following, would pay unto the said W, the first day of September in the tenth yeare abovesaid, at W aforesaid, did assume upon himsele, and to the said I then and there faithfully promise, that he the said W would deliver unto the said I, the said bill obligatoꝝ cancelled, or otherwise the said W a certaine writing of release unto the said I, would make and seale, and as his Deed would deliver in full discharge of the said Bill obligatoꝝ: And although the said I upon confidence of the faithful promise & assumption of the said W aforesaid, upon the said nineteenth day of January at W aforesaid, did pay unto the said W the said ninty shillings. Notwithstanding the said W his promise and assumption aforesaid, little regarding but meaning, and fraudulently intending him the said I, in this behalfe craftily, and subtilly to deceive and defraud, the said Bill obligatoꝝ unto the said I, hitherto hath not delivered, cancelled, neither any writing of release unto the said I, hath made, sealed, and as his Deed delivered in discharge of the said Bill, according to his promise and assumption aforesaid, but the said Bill obligatoꝝ cancelled, or otherwise the writing of release to make, seale, and as his Deed deliver, hath altogether refused and as yet doth refuse, although to doe the same the last day of January, in the tenth yeare abovesaid, and often afterwards at W aforesaid was required, whereupon he saith he is the worse, &c. to the value of forty pounds.

And therof he bringeth his Smit, &c.

Breach of promise.

Trespasse upon the case brought by an Executor against one in consideration the Testator had boarded him for such time;

Speciall request.

Shewing of the letters testamentary.

TRin. 13. Jac. Rot. 2188. Brownelow, Kent ff. IA late of, &c. r. RT Widow Executrix of the Testament of RT, &c. And whereupon the said R by IS her Attorney complaineth that whereas the said R by I, the eight and twentieth day of Aprill, in the yeare of our Lord 1607. at B, in consideration that the said I had put himsele to board with the said R in his life time foꝝ one week then next following; And so from one weeke to another, as long as it should please both the said parties, the said I then and there did assume upon himsele, and to the said R in his life time faithfully promise, that hee the said J would pay unto the said R foꝝ every week wherein he the said J should board with the said R four shillings, of lawfull money of England foꝝ the commons of the said I when he should be thereunto required: And the said R in fact saith, that the said IA from the said eight and twentieth day of Aprill, in the yeare of our Lord 1607. abovesaid, by fifty two weeks then next following, was boarded with the said R in his life time, and that the commons of the said I, according to the rate of four shillings of every week of the said fifty two weeks, in the whole doth amount to the sum of ten pounds and eight shillings: Notwithstanding the said I his promise & assumption aforesaid, not regarding, but meaning the said R in his life time, of the said 10 l. & 8 s. to deceive & defraud the said 10 l. & 8 s. to the said R in his life time or unto the said R after the death of the said R, according to his promise and assumption aforesaid, although to doe the same, the said IA afterwards, that is to say, the twentieth day of May, in the yeare of our Lord 1608. by the said R in his life time at B aforesaid, and by the said R after the death of the said R, that is to say, the first day of Aprill, in the yeare of the reigne of the Lord the King that now is the eleventh, at B aforesaid was required, hath not paid, to the damage of the said R of twenty pounds: And in hinderance of the execution of the Testament aforesaid, and thereof hee bringeth her sute &c. And bringeth here into Court the Letters Testamentary, &c.

And

Assumpſion the ſaid I no Action, becauſe he ſaith, that after the promiſe and aſſumpſion aforeſaid made (that is to ſay) the firſt day of June, in the year of our Lord 1608. at B aforeſaid; he paid unto the ſaid R in his life time the ſaid ten pounds and eight ſhillings, in diſcharge of his promiſe and aſſumpſion aforeſaid: And this he is ready to prove, &c. judgment if action, &c. See beſore 24. B. the like Plea. T 17. Jac. rot. 1988.

The Def. pleads payment to the Teſtator in his life time after the promiſe.

Assumpſion the ſaid R not to be barred, becauſe he ſaith, that the ſaid I did not pay unto the ſaid R in his life time the ſaid ten pounds and eight ſhillings, in diſcharge of his promiſe and aſſumpſion aforeſaid, as the ſaid I above hath alledged: And this the prayeth may be enquired of by the Country, &c.

Replication that he did not pay.

TRin. 7. Jac. rot. 1211. Brownlow. London. ſ. G in perſon againſt L upon an Attachment of privilege: And whereupon the ſaid I in his proper perſon complaineth, that whereas he, the twenty eighth day of Auguſt, in the year of the reign of the Lord the King that now is, and long beſore, had and hath the ſtone in his bladder, and the excoriation in his ſame bladder, by reaſon whereof the ſaid I endeavoured to ſeek cure for the diſſolving of the ſaid ſtone and healing of the ſaid excoriation in his bladder aforeſaid. The ſaid R well knowing the premiſſes, being a man unſkilful and ignorant in the cure of the infirmity aforeſaid, meaning and intending him the ſaid I craftily and ſubtilly to deceive and defraud, the day and year above ſaid at London, in the pariſh of St. Mary Bow in the Ward of Cheap, did aſſure and affirm to the ſaid I himſelf to be ſkilful, and to have the knowledge and ſkill of diſſolving the ſtone in the bladder, and of healing the excoriation in the bladder, whereby the ſaid I, to the aſſertion and affirmation of the ſaid R giving credit, then and there did retain the ſaid R to diſſolve the ſaid ſtone, being in the ſaid bladder of the ſaid I, and alſo to heal the ſaid excoriation in the ſame bladder of the ſaid I. Whereupon the ſaid R for ſix pounds thirteen ſhillings four pence, by the ſaid I unto the ſaid R then & there in hand paid, and for twenty marks by him the ſaid I unto the ſaid R, upon the finiſhing of the cure aforeſaid, to be paid, took upon himſelf the cure of diſſolving the ſaid ſtone in the ſaid bladder of the ſaid I, and of healing the excoriation aforeſaid in the ſame bladder of the ſaid I, whereas in truth the ſaid R at the time of the aſſertion and affirmation aforeſaid, or ever afterwards or beſore had no knowledge or ſkill of diſſolving the ſtone in the bladder, nor of healing the excoriation in the bladder, nor ever was Doctor in Phyſick, neither Phyſician nor Chirurgion within the City of London aforeſaid, or elſewhere in due manner allowed. By reaſon whereof the ſaid R ſo unſkilfully and negligently his cure aforeſaid, about the diſſolving of the ſtone in the bladder of the ſaid I, and the healing of the excoriation aforeſaid, did intend and draw, and Medicines not beſitting but dangerous to the diſſolution of the ſaid ſtone in the ſaid bladder of the ſaid I, in curing of the ſaid excoriation in the ſame bladder of the ſaid I, did apply, that from thenceforth, & for want of knowledge of the ſaid R in this behalf, the ſtone aforeſaid of the ſaid I remaineth yet, not only undiſſolved, and the ſaid excoriation of the ſaid I not being healed, but moze and moze dangerous & hurtful unto the ſaid I, from time to time increaſing, to the great deceit, prejudice, and impoveriſhing of the ſaid I, and the danger of looſing his life, whereupon he ſaith, that he is the worſe, and hath damage to the value of forty pounds, and thereof he bringeth his ſuit, &c.

Treſpaſſe on the caſe againſt a Chirurgion for the evil cure of a wound, for that he was no Chirurgion or expert in Phyſick, in deceit of the Plaintiff. See the Book of Entries, title Phyſicians and Chirurgeons, 1, 2, 3. fo. 483. a. b.

Retainer. Undertaking of the cure.

Ignorance of the Quackſalver.

damage of the Plaintiff.

See 11. H. 6. fo. 8. pl. 10.

Pledges to proſecute ³ J D
R R

Trespasse on the case against the Executors of a Clerke, for dilapidations. H. 15. H. 8. Rot. 306. the like.

Customs of England. H. 15. Ja. Rot. 474. the succeeding Vicar brought an action of the case against his Predecessor, after resignation of the Vicaridge for dilapidations.

Request.

See the like, M. 16. H. 8. Rot. 306. Ford. for the Plaintiff in this Action. See T. 18. H. 7. Rot. 69. the like action brought between *Nemelson* and *Baynes*, Executor of the Testament of T. N. late Vicar of the Church of R. in the County of W. M. 11. H. 8. Rot. 730.

Trespasse on the case against the Factor of a Merchant for his promise of payment of so much money of *Hamburg*, which amount to so much English money on an English Bill of Exchange.

E After 12. and 13. H. 8. Rot. 126. *Jenour*, ff. R. T. Chaplaine of W, T P of N Butcher, and R G late of B in the County of S husbandman, Executors of the Testament of W S Clerk, late Pastor of the free Chappel of W H, in I, were attached to answer J M Clerke, Pastor of the free Chappel of W in J of a Plea, that whereas according to the Law and Custome in the Realme of the Lord the King of England, hitherto obtained and approved, all and singular Prebendes, Rectors, Vicars, and Pastors of free Chappels, and Chaplaines of the Chantry of the same Realme, for the time being, all and singular the Houses and Buildings of their Prebendes, Rectories, Vicaridges, and free Chappels of their Chantries, to repaire and sustaine, and them to their Successors are bound to leave repaired and sustained; And if those Prebendaries, Rectors, Vicars, and Pastors of free Chappels and Chaplaines of Chantries, those houses and building to their Successors, so as aforesaid did not leave repaired & sustained, but suffer them to be irrepaired, the Executors or Administrators of the Goods & Chattels of the said Prebendaries, Rectors, Vicars, and Pastors of free Chappels and Chaplaines of Chantries after their death, of the Goods and Chattels of the said Testators, to the Successors, Prebendaries, Rectors, Vicars, and Pastors of free Chappels, and to the Chaplaines of Chantries aforesaid, such sum of money as for the repairation or necessary re-building of those Houses & Buildings, shall be expended or paid, are bound to satisfy: And although the said W S, late Pastor of W in I aforesaid, the said Houses and Buildings of the said free Chappel, at the time of his death irrepaired, had suffered to be, so that one hundred pounds could not repaire these Houses and Buildings, and the said I M of the said R T and R after the death of the said W S unto the said I M to deliver so much money as to the reparations of the said Houses and Buildings might suffice, was often required: Notwithstanding the said R T and R unto the said I M any sum of money for the irreparations aforesaid, have refused to satisfy, and as yet doe refuse to the damage of the said I of two hundred Marks, &c.

Defendant pleads fully administered. And the Plaintiff replies that there are assets, &c.

T Rin. 13. Eliz. Rot. MMXXI. London ff. R H late of L Skinner, r. W S of a Plea that whereas the said W, the tenth day of September, in the years of the reign of Lady the Queen that now is the eight and twentieth at London in the Parish of Saint Mary Bow, in the Ward of Cheape, had delivered by way of exchange to one H A then being Pastor of the said R to the proper use of the said H, fifty pounds of lawfull money of England, to the intent that the said H or his Brother in E in the parts beyond the Seas, for the same fifty pounds, should pay and content unto the said W fifty one pounds and ten shillings, of *Hamburg* money at the end of two moneths then next following.

And whereas the said H, afterwards, that is to say, the day and yeare abovesaid at L. in the Parish and Ward aforesaid, had given and delivered unto the said W, his Bill of exchange, made according to the use of Merchants, the said R then being Serbant and Factor of the said H resident in E directed and by the same his Bill of Exchange had commanded, appointed, and authorized him the said R, his Factor, to pay unto the said W, the fifty one pounds and ten shillings of *Hamburg* money, at the end of the said two moneths then next following: And the said R, that Bill afterwards, that is to say, the said fifth day of October, in the eighth yeare abovesaid at L, in the Parish

Parish and Ward aforesaid, in consideration of the Premises, did assume upon himselfe, and to the said W, faithfully promise to pay unto the said W the said sixty one pounds and ten shillings of Hanborough money, at the end of the said two moneths according to the tenor and effect of the said Bill, and although sixty one pounds and ten shillings of Hanborough money, at the end of the said two moneths did amount unto fifty one pounds and nineteen shillings of English money.

Notwithstanding the said R his promise and assumption aforesaid, little regarding, but meaning him the said W, in this behalfe craftily to deceive ^{Breach of promise.} him, and defraud, the said sixty one pounds and ten shillings of Hanborough money, amounting to the said fifty one pounds and nineteen shillings of English money to the said W, according to his promise and assumption aforesaid (although to doe the same to the said W, afterwards that is to say the tenth day of November, in the eight and twentieth year abovesaid, and often afterwards had been required) hath not paid, but the same to him hitherto to pay hath ^{Breach of promise.} denied to the Damage of the said W of one hundred Marks. And thereof he bringeth his Suit, &c. Judgment for the Plaintiff, ^{Damage of the Plaintiff,} writ of enquire of Damages awarded: Damages in the whole to one hundred Marks, and the said Defendant in mercy, &c.

M 2. Ja. Rot. 1355. Brow. W W brought an Action of the case for words ^{Slander of the person.} against A G, viz. thou art falsly forsworne, and didst forswear thy selfe, in the Court of Cardington with R M, without averment that it was a Court of Record: The Defendant pleaded not guilty, and issue thereupon, but no Judgment given therein.

E After 2. Ia. Rot. 641. W T brought an Action of the case against G B for ^{Slander of the person,} slanderous words, viz. that he is a theife, and hath stolen my oates, (meaning the oates of the said G) the Defendant pleadeth not guilty, and it was found against him on the the behalfe of the Plaintiff, and Judgment given thereupon, and Damages taxed to six pounds five shillings for that it was intended that the oats were not growing.

But see if it were moved in Court.

T Rin. 2. Ja. Roll. 260. I against T B, Action upon the Case for words, ^{Slander of the person.} viz. thou art a knave, and a perjured knave, and that I will prove: The Defendant pleadeth not guilty, but no Judgment given because that the words are not actionable, q.

E After, 13. Ia. Rot. 769. Brownlowe. London, ff. W B g. r. IG Cent. ^{Trespasse upon the case by an Attorney against the Defendant for slanderous words, of him in his possession.} One of the Attorneys, &c. of a Plea of Trespasse upon the Case, &c. And wherupon the said I in his proper person complaineth that whereas the said I is a good true and faithfull leige man of the Lord the King that now is, & as a good, true, and faithfull leige man of the said Lord the King, from the time of his birth hitherto, himselfe hath behaved, had, and governed, and of good name, fame, gesture, condition, and conversation, honestly amongst his neighbours, and other worshipfull and faithfull Subjects of the said Lord the King, hitherto hath been noted, taken, and reputed, and without any suspicion of falsity, deceit, or corruption, or of any other hurtfull crime unblemished, and untouched, hath remained and continued: And whereas also the said I for twelve yeares last past, was, and yet is one of the Attorneys of the Court of the said Lord the King of the Common Bench aforesaid, and by all that time, divers, businesses, Sutes and Causes, for divers his Clients in the said Court of Common Bench aforesaid, prosecuting and defending, justly, faithfully, and without any fraud, or deceit hath prosecuted, and by reason of the honest and faithfull prosecution of the businesses, Sutes, and Causes aforesaid,

divers fees, Gaines, and Profits, towards the maintenance of the said I, and of his whole family, justly, and honestly he hath acquired: Notwithstanding the said W, not being ignorant of the Premises, but meaning and intending the good name, fame, credit, and estimation of the said I, altogether to hurt and make worse; And him the said I into an evil name, fame, and opinion amongst his Neighbours, and other worshipfull Subjects of the said King aforesaid, to bring: the second day of Aprill in the yeare of the reign of the said King the thirteenth, at London, in the Parish of Saint Mary Bowe, in the Ward of Cheape, having communication with one F H, then the Client of the said J in the Court of Common Bench aforesaid concerning the same J G, certaine false, feigned, scandalous, and opprobrious words of the same J, in the presence and hearing of divers leige people of the said Lord the King, did speake, utter, and publish, that is to say, Is he (the same J meaning) your Attorney? have you, (the said F likewise meaning) no honestier an Attorney then he (the said I meaning) he (the same I likewise meaning) was pitched over the Bar at Westminster for his knavery: Why reason of the relating, speaking, and publishing, of which said false, feigned, scandalous, and opprobrious words, the said J, not only into great infamy, discredit, and scandall amongst his Neighbours, and other worshipfull Subjects of the said Lord the King, and his Clients hath fallen and incurred, but also those his Neighbours and worshipfull Subjects, and his Clients aforesaid, who before that time reposed trust and credit in the said I, by reason of the speaking and publishing of the words aforesaid, from the company of the said J, do altogether withdraw themselves, and the same I as their Attorney to retaine, and have, refused, and as yet do refuse, to the damage of the said I of two hundred pounds. And thereof he bringeth his Sute, &c.

Pledges to prosecute I D, R R.

Defendant is admitted by his Guardians.

And the said W by O G, and T C, Gent. who are admitted by the Court here, to prosecute and defend for the said W, who is within age as Guardians of the said W, come and defend the force and wrong, when &c. And plead not guilty.

Trespasse on the case for slanderous words, the Defendant justifies and saith,

An Action upon the case, upon promise to pay money to the Plaintiff, for procuring his wife to levy a Fine with her husband, of Lands of the husbands and wives. The purchaser devised, a Fine to be levied.

TRin. 13. Jac. Rot. 664. Brownlow. Dorff. A T K brought an Action upon the case, against L M, for saying that the Plaintiff the first day of Aprill, in the thirteenth yeare of the said King at D, thou stolest out of M M fold, and thou wert whipt at Sherborne Sessions at a Cartes table, without mentioning of what place M M was, &c.

that a stranger was possessed of two Lambes, and that the Defendant stole them.

LIncolne, ss. W T late of Blackney, in the County aforesaid Knight, was attached to answer A T Esquire, of a Plea, wherefore whereas the said W, the last day of September, in the third yeare of the reign of the now King of England, at Hough upon the Hill, for a certaine summe of money, by the said W to the said A before hand paid, had bought of the said A, the Mannor of W with the Appurtenances, and ten Messuages, &c. with the Appurtenances in W and S, in the County aforesaid: And the said W afterwards, that is to say, the day and yeare abovesaid at Hough upon the Hill aforesaid, to the intent that C then wife of the said A, her dower of and in the Mannor and Tenements, Rent, and Common aforesaid (after the death of the said A, (if the said C should survive the said A) would make over to the said W, devised for the better assurance of the said Mannor, Tenements, Rent, and Common aforesaid, to be made for ever unto the said W, and his Heires, that a certaine Fine should be levied in the Court of the Common Bench before the Justices of the same Bench at Westminster, between the said W T Knight Plaintiff, and one E T widow, the same A T Esq; and the said C, then

and yet wife of the said A deforceants of the Mannor, Lands, Kent, and Common aforesaid with the Appurtenances; by which said Fine the said E, A and C, acknowledge the Mannor, Lands, Kent, and Common aforesaid, to be the right of the said W, as those which the said W should have of the gift of the said E, A and C, according to the usual course of Fines, in such behalf levied in the said Court of the Common Bench, & the said W afterwards, that is to say, the same day and yeare, at Hough upon the Hill aforesaid (in consideration that the said A would procure, that the said C then & yet wife of the said A, together with the said E and W, to acknowledge the said Fine by the said W, as premised, devised, so that a Fine thereof afterwards might be levied in the said Court of Common Bench, between the said W and the said E, A and C, of the Mannor, Lands, Kent, and Common aforesaid, according to the usual course of Fines, in such behalf to be levied in the said Court of the Common Bench) did assume upon himselfe, and to the said A then and there faithfully promise that he the said W; ten pounds to the said C when he should be thereof required, well and faithfully would content and pay: And although the said C by the procurement of the said A, and the said E and A, afterwards to wit, the tenth day of October, in the third yeare of the now King of England abovesaid, at Hough upon the Hill aforesaid, before Anthony Thorold Esquire, and Iohn Thomson Esquire, Commissioners of the said Lord the King, by Writ of the said Lord the King of dedimus potestatem, in that behalf to them, in this behalf directed, acknowledged the said Fine by the said W, as premised, devised, of the Mannor, Lands, Kent, and Common aforesaid with the Appurtenances, so that a Fine thereof, afterwards in the said Court of the Common Bench, might be levied between the said W, and the said E, A and C of the Mannor, Lands, Kent, and Common aforesaid, according to the usual course of Fines in that behalf, to be levied in the said Court of Common Bench, and although also the said Fine by the said C, together with the said E and A, before the Commissioners aforesaid, as is premised was acknowledged, and in the same Court of the Common Bench, in Michaelmas Terme, in the third yeare of the said Lord the King aforesaid, in due forme of Law was had and levied, between the said W and the said Eleanor, Alexander and Christian, of the Mannor, Lands, Kent, and Common aforesaid, with the Appurtenances according to the usual course of Fines in the said Court of the Common Bench to be levied.

Consideration.

Assumption.

Nevertheless the said William his promise and assumption aforesaid, little caring, but minding, and fraudulently intending the same Alexander and Christian in this behalf, craftily, and subtilly, to deceive and defraud the same ten pounds to the same Christian, according to his promise and assumption aforesaid (although the same William the first day of May, in the fourth yeare of the said Lord the King, and often afterwards at Hough upon the Hill aforesaid was requested) hath not paid but the same to him to pay hath hitherto refused, and yet refuseth to the damage of the said Alexander of forty pounds, &c.

Breach of promise.

Requett. M. 19. Ja. Rot. 2093. Brownlow. Derby, Bently against Tully, Case upon an assumpsit, generall without request, and the speciall Declaration containing speciall request.

M15. & 16. Eliz. Rot. 1959. In Trespasse upon the case brought against two, the one dyes, the Writ shall not abate against the other, M. 25 & 26. Eliz. Rot. 2648. & 24. Eliz. Rot. 1005. & there Rot. 1110.

Death shall not abate the Writ in an Action of the case.

A little time.

H 5. Jac. Rot. 613. Briant against Saker, the Plaintiff declares upon an Assumption, to forbear him a little time, it was adjudged naught, for the Report, because it is uncertaine when, Hill. 18. 1a. Rot. 536. Gulton Maxes against Sidley: Judgement for the Plaintiff by the consent of all upon debate, Pasch. 36. Eliz. Rot. 488. in the upper Bench, Sackford against Phelps.

Action upon the case for building a Woodstack, and thereby destroying an ancient light belonging to a Ware-house. Prescription for the lights. M. 17. Ja. Rot. 361. is such a declaration for stopping a light in London, and justification of it, by the custome, Packer against Greaves, P. 10. 1a. Rot. 517 in the Kings Bench is such a Precedent between Newell and Barnard. A Lease made to the Plaintiff of a messuage for years, Assignment of terme, The Nufance. P. 11 Jac. Rot. 2047 Trespass for erecting a house in damage of his Neighbour, and judgement against the Plaintiff for defect of an averment, Quere.

H 5. 1a. Rot. 1512. City of Bristow ff, Christopher Whitson, late of the City of Bristow, in the County of the City of B Merchant, was attached to answer I D of a Plea, wherefore, whereas T C and others were seised of one Messuage in the Parish of all Saints in the said City, in their demesne as of fee, the west part of which said messuage, adjoyneth to a certain Court, parcell of a certaine messuage of the said C, in the Parish aforesaid: And that from the time whereof the memory of man is not to the contrary, there were, and yet are two ancient Windows on the West part of the said messuage of the said D, one of them being a Sellar Window of the said I, parcell of the said messuage of the said I, and the other of them being a Window of a certaine house called a Ware-house of the said I, parcell of the said messuage of the said I, by which Windows a great light for the inlightning of the said Sellar and House called a Ware-house, did come out of the said Court in the day time, and by the same light coming out of the same Court by the said Windows, the whole Sellar and house aforesaid called a Ware-house, in the day time were much inlightened, without any obstruction, or adumbration of that light, made by any of the occupiers of the said Court, in the same Court to the great use, commodity, profit, and easement of the inhabitants of the said messuage, of the said I D, the said T C, and others, so being seised of the messuage aforesaid, as in forme aforesaid, the same T M, B W, & others, the fifteenth day of Sep: in the nine and twentieth yeare of the Lady Eliz. late Queen of England, at the City of B aforesaid, demised to one R C the said messuage of the said I D, with the Appurtenances, with all Rights and Easements thereunto belonging and appertaining, to have and enjoy that messuage, with the Appurtenances to him and his Assignes, from the feast of the Annunciation of the blessed Virgin Mary, then last past, untill the end and terme of forty yeares then next following, fully to be compleat and ended, by virtue of which demise the same R C into the said messuage of the said I D, with the Appurtenances did enter and was thereof possessed, and being thereof so possessed (he grants to the Plaintiff, and he enters) and was, and yet is thereof possessed: And also whereas the said C W the first day of April in the fifth yeare of the King now, and long before, and continually from thence hitherto was possessed of the said Court, situate in the Parish aforesaid, and the said I D of the said messuage of the said I D, with the Appurtenances in forme aforesaid being possessed, the said C W out of his perversenelle of minde, maliciously devising and intending him the said I D of the use, profit, and commodity of the aforesaid Sellar and house, called the Ware-house of the said I D, wholly to defraud and hinder, and of the said ancient light into the said Sellar and House out of the said Court by the said Windows by the whole time aforesaid coming and descending, wholly to deprive and hinder, and to obstruct and adumbrate the said Windows, the said first day of April, in the fifth year aforesaid, at the City of Bristol aforesaid, on set purpose, did place, put, and erect to such a height a great pile of faggots in the said Court, so near the said Windows on the west part of the said Messuage of the said I D, that the said Windows, and the ancient lights of the said Sellar and house called a Ware-house, coming out of the said Court by the said Windows, as is premised, by reason of the erecting of that pile so near the Windows aforesaid, as

in form aforesaid, were altogether darkened and hindered, and from thenceforth hitherto have remained and continued dark, whereby the said I D his Merchandises and Wares being in the said Cellar and House called a Ware-house, for defect of the said ancient light, as is premised, obstructed, and abated, he could not usefully sell, and the remainder of the said Dwelling of the said I D for that reason is darkened and made unfit and insalubrious for the abode and stay of the said I D, to the damage of the said J D of forty pounds, &c. See Aldreds Case Coke 9. fo. 55. B Such an Action was brought, and adjudged for the Plaintiff.

H 10. Jac. rot. 1942. An Action upon the case brought by the Mayor and Commonalty of London, H J S for intruding upon the privilege of the City of London in measuring of Sea-coal at Graves-end.

T 9 Jac. rot. 1825. Case brought by a Copy-holder for obstructing his way by prescription.

H 11. Jac. rot. 1645. Brownlow. Lincoln. ff. B S against E N, and whereupon the said B by W F his Attorney complaineth, that whereas one D N the eighteenth day of March, in the tenth year of the King, at Grantham, had bargained to buy of the said B four fat Oxen to be delivered to the said D at a certain time to come, for thirty two pounds, that is to say, for twenty two shillings then and there to be paid, and thirty pounds and eighteen shillings remainder thereof afterwards, to wit, at the time of the delivery of the said four Oxen to the said D to be made; of which said thirty pounds and eighteen shillings so to be paid, the said D eighteen shillings to the said B afterwards, that is to say, the two and twentieth day of March, in the year abovesaid, at Grantham aforesaid satisfied the said B afterwards, to wit, the same two and twentieth day of March, in the year abovesaid of the said E N, now King of England eleventh, at Grantham aforesaid, in consideration that the said B at the special instance and request of the said E then and there had delivered to the said D the said four Oxen without any other sum then to be paid for them upon the bargain aforesaid, upon himself did assume, and to the said B then and there faithfully promise to pay to the said B thirty pounds, remainder of the said thirty two pounds then unpaid, in manner and form following, that is to say, four pounds or five pounds within two or three dayes then next following, and the residue of the said thirty pounds within fourteen dayes then next following.

Case upon promise to pay moneys upon a bargain, part thereof within two or three dayes, and the remainder within fourteen dayes next ensuing, breach for not payment after fourteen dayes, Consideration

Promise.

Nevertheless the said B his promise and assumption aforesaid not regarding, &c. the said thirty pounds to the same B, according to his promise and assumption aforesaid, although hereunto by the said B afterwards, to wit, the first day of May, Anno 11, &c. and often afterwards, at Grantham aforesaid, he was thereof required, hath not paid nor any wayes contented, but, &c. damages forty pounds, Defendant pleads, that he did not assume.

Request.

H 11. Jac. rot. 1804. Brownlow. South. ff. F P Knight against R Gent. And whereupon the said F by I W his Attorney complaineth, that whereas the same F was well, peaceable, and quietly seised in his Demesne as of fee, of and in the Manor of Bouthworth, with the appurtenances, and being thereof so seised, the said F afterwards, to wit, the second day of January, in the year of the new King, the fifth, propounded and intended

Case for standing the title of the Plaintiff in a manner. Intention of the Plaintiff, to demise the said Manor.

H IC. J. rot.

1049

T 18. Jac. rot.

806 and 3019

The slander.

ed to demise that Danno2 to any person or persons whatsoever, that should take it for term of years to be agreed upon, the said R well knowing the premises, intending to draw the right and title of the said F to the said Danno2 into scandal and infamy, whereby the said F might not demise the said Danno2 to any person, according to his intention and purpose, and to intitle the King to that Danno2, as to a Danno2 concealed from the King, and of right belonging to the Crown of England, the first day of June, Anno 6. &c. at B aforesaid, in the presence and hearing of one R S Gent. and of divers other Subjects of the said Lord the King, to the said F unknown, did affirm and publish, that the said Sir F P had no right to the Danno2 of Bentworth, meaning, that the said Sir F P hath no right to the said Danno2 of Bentworth, by which the said R S, giving credit to the affirmation and publication of the said R aforesaid, afterwards, to wit, the thirteenth day of August, in the sixth year, &c. abovesaid, sued forth of the Court of Chancery of the said Lord the King, certain Letters patents, or a Commission sealed with the great Seal of the said Lord the King of England, directed to T W Knight, H P Knight, W K Knight, G W Knight, T R Doctor of Lawes, and R B Gent. to enquire by the oath of honest and lawful men of the County of South. aforesaid, whether the right or title of that the said Danno2 was concealed from the said Lord the King, or not, by reason of which said affirmation and publication aforesaid, the said F could not demise the said Danno2 to any person or persons. And the said F divers sums of money in defence of the right of his title unto the said Danno2, with the appurtenances, was compelled to pay, by pretext whereof the said F is much bereaved, disquieted, and damaged one hundred and twenty pounds, &c.

Not guilty pleaded.

T Rin. 21. Eliz. rot. 1002. Nelson. Between Stone and Stuble: Case for Slandering of a title to a Rectory.

H 26. Eliz. rot. 1745. P. 6. H 6. rot. 313.

M 22 and 23. Eliz. rot. 853. Stile against Ilen: Case for Slandering of a title.

M 43 and 44 Eliz. rot. 650. Elliot against Lukys. The like.

T Rin. 1. P and M rot. 613. The like.

Case for obstructing a common way for carriages brought by the Lessee for years. The lessee prescribes upon the lessor and his Ancestors. T 19 Jac. 1 or. 1703. Case for obstructing the way to a sheep-fold.

T 5. I rot. 601. Brownlow. ff. G W late of, &c. was attached to answer R U of a Plea, wherefore, &c. And whereupon the said R by J P his Attorney complaineth, that whereas one W C Esquire the first day of May, Anno Reg. 40. was seised of a certain Close of Land called Parrie field, otherwise the ferme field, containing thirty acres, with the appurtenances, in great Waldingfield, and little W, in the County aforesaid, in his person as of fee.

And the same W, and all those whose estate the same W then had in the same Close of Land called P, otherwise F, with the appurtenances, from the time whereof the memory of man is not to the contrary, have and were accustomed to have for him, his, and their farmers and Tenants of the said Close of Land a certain way to go, return, carry and recarry with his Teams and Carts, and to chase and recatch his Cattel from the said Close of Land called P, otherwise F, with the appurtenances, by thorough, and beyond certain

certain peice of Land of T A Esquire deceased, containing thirty perches, lying in little W aforesaid, between the lands late of the said T A called Smithcrofte, otherwise H, of the one part, and the Meadow late of the said T on the other part, unto the Kings way in little W aforesaid, which leadeth from the Church of little W aforesaid against Bruer, called Bobergh Heath, and from the said Kings way, by, through, and beyond the said peice of Land of late of the said T A, unto the said Close called P, otherwise F, with the appurtenances, at all times in the Year at their pleasure.

And the said W C being seised of the said Close of Land called P, otherwise F, in form aforesaid, the said W afterwards, to wit, the first day of May, Anno 4. abovesaid, at great W aforesaid, did demise to the said R the said Close of Land called P, otherwise F, with the appurtenances, to have and occupy to him and his Assignes from the Feast of the Annunciation of the blessed Virgine Mary then last past, unto the end and term of one whole year then next following, and so from year to year, so long as it pleased both parties. By virtue of which Demise the said R entred into the aforesaid Close of Land called P, otherwise F, and was, and yet is thereof possessed. And the said R being so thereof possessed, the said G minding, and maliciously intending the said R to hinder, that he the said way, by, through, and beyond the said peice of Land late of the said T A might not use, and that he may not as he ought have and enjoy the profits of the said Close of Land called P, otherwise F, the twentieth day of February, Anno Reg. 4. abovesaid, certain posses in and upon the said peice of land late of the said T A near the Kings way aforesaid did erect, and certain rails in the same posses there overthwart the said way did affix, and did obstruct the way, whereby the said said R his said way to go and return, carry and recarry with Teams and his Carts, and chusing and rechusing his Cattle, by, through, and beyond the said peice of Land late of the said T A unto the said Close of Land called P, otherwise F, by a long time, to wit, from the said twentieth day of February, Anno 4 abovesaid, until the twentieth day of April then next following he could not use.

The Plaintiff conveys a title to himself by lease for years.

The obstruction.

And the said R, by reason of the obstruction of the way aforesaid, the profit which he out of the same Close of Land called P, otherwise F, might have received by the whole time aforesaid lost, whereupon he saith, that he is made worse, and hath damage to the value of ten pounds, and thereof bringeth suit, &c.

Defendant pleaded not guilty.
Judgment for the Plaintiff.

TRin. 5. Jac. rot. 3066. Brownlow. Be it remembered, that the fifth day of June, in that same Term, came here in Court I C by R W his Attorney, and exhibited to the Justices here his certain Bill against H H Gent. one of the Attorneys of the Court of Common Bench here, present here in Court in his proper person, of a Plea of Trespasse upon the case. The tenor of which said Bill followeth in these words: To the Justices of the common Bench, Midd. ss. I C by R W his Attorney complaineth of H H Gent. one of the Attorneys of the Court of the common Bench here, present here in Court in his proper person, for that, to wit, that whereas one I T heretofore, that is to say, in Mich. Term, Anno, &c. did bring and prosecute out of the Court of Chancery of the said King now at Westmin. in the County of Midd. being, a certain original Writ of the said King against the said I C, in a Plea of Debt of forty pounds directed to the then Sheriff of Som. by which Writ the said Lord the King now commanded the then Sheriff, that the then said Sheriff should command the said I C by the name of I C late &c. otherwise called, &c. that justly and without delay he should render to the said I T forty pounds, which he did owe to him, and unjustly detained as

Cause by Bill against an Attorney for appearing without warrant, and giving judgment without the consent of this Client. Judgment arrested, inquire the reason.

An original Writ sued out of the Chancery.

he

he said, and unless he should do it, &c. And that he might have here the Summoners and that writ.

The Plaintiff comes in Court at a day.

At which day before E A Knight, and his Associates, then Justices of the said Lord the King of the same Bench here, to wit, at Westminster aforesaid came the aforesaid I T in his proper person, and offered himself the fourth day against the said I C in the Plea aforesaid. And he then came not here. And then the Sheriff of Som. to wit, E R Esquire, returned the writ aforesaid to him in form aforesaid directed, in all things done and executed, to wit, that the said I had found to the then Sheriff of Som. Pledges to procure that writ, to wit, I D and R R.

Nichil returned.

And that the said I had nothing in his Bayliwick whereby he could be summoned, by which it was commanded to the then Sheriff of Som. that he should take him the said I C if, &c. and him safe, &c. so that he might have his body here, to wit, at Westminster aforesaid, from the day of St. Michael, in one moneth then next following, to answer the said I T of the aforesaid Plea, &c.

T 17. Jae. rot. 2839. Between Stripwith and Astworth in like case, and shews, that lands were extended by Elegit upon the same judgment given without warrant, and that the Plaintiff in that judgment entred into the moiety levied by the Sheriff, and held them until he be paid. Alias awarded, Plur. awarded, Exigent awarded.

At which day, before the said E A and his Associates, then Justices of the said Lord the King of the same Bench, came the said I T in his proper person, and offered himself the fourth day against the said I C of the Plea aforesaid: And he then came not here. And the said E R then Sheriff of Som. then here returned, that the said I C was not found, &c. by which then as otherwise it was commanded, &c. returnable in fifteen dayes of St. Martin, as in the Capias word for word, whereby then as more times it was commanded, &c. returnable, Octob. Hill. to answer the said I T of the said Plea.

At which said eight dayes of St. Hill. before E A Knight and his Associates, &c. to wit, at Westminster aforesaid came the said J T in his proper person, and offered himself the fourth day against the said J C of the aforesaid Plea: And he then here came not. And the said E R then Sheriff of the County of Som. then here returned, that the said J C was not found, &c. by which it was then commanded to the then Sheriff of Som. that he should cause to be called the said J C from County to County, until according to the law and custom of England, he should be allowed if he appeared not, and if he appeared, that then he should take him, and safely cause to be kept, so that he might have his body before the Justices of the said Lord the King in the said Bench here, to wit; at Westminster aforesaid, in the morrow of the Ascension of our Lord then next following, to answer the said I T in the aforesaid Plea: And whereupon, &c.

At which morrow of the Ascension of our Lord, before the said E A Knight and his Associates, &c. here, to wit, at Westminster aforesaid, came the said I T in his proper person. And the said H H intending the said I C in this behalf unjustly to molest & defraud, without any warrant by the said I C to the said H in this behalf given, and without notice and consent of him the said I C, at the aforesaid morrow of the Ascension of our Lord, as Attorney of the said I C to the aforesaid Action in the Court of the said Lord the King here, by writ of the said Lord the King of Superedeas, because it unduly issued for the said I C of and upon the said Plea, appeared. The said I T declaring against him the said I C, said, that the said I C had not rendered unto the said I T the said forty pounds, which to him he then ought and unjustly detained, so that, to wit, that whereas the same I C the fourteenth day of September, Anno, &c. 2. at Taunton, by his certain writing obligatory granted himself to be holden to the said I T in the said forty pounds, to be paid to the said I T when he should be thereof required.

Nevertheless the said I C, although often required, the said forty pounds unto the said I T then had not rendered, but the same to him, until then, to render refused, and yet refuseth, whereupon he then said, that he was damaged,

fixed and had damage to the value of ten pounds and then brought his suit, &c. And then brought here into the Court the Writting aforesaid, which the debt aforesaid testified, whose date was the day and year abovesaid.

And the said H H, as Attorney of the said I C, without any Warrant to the said H by the said J C in that behalf given, and without the notice or consent of the said J C, intending falsely and fraudulently to cause him the said I C to be condemned in the said Action, whereas the said I could lawfully discharge himself from the said Action, and then defend the force and wrong when, &c. And the said H then said, that he then was not informed by the said I C his Client of any answer for the said J C unto the said I T in the said plaint to give, and nothing else therein then said, whereby the said J T then remained against the said J C therein without defence, by reason whereof in the said Court it was then considered, that the said J T should recover against the said J C his said debt and his damages, by reason of the detaining of the said debt to sixty six shillings eight pence to the said J T of his assent by the Court here then adjudged. And that the said J C should be then in mercy, &c. As by the Record and proceedings thereof remaining here in the same Court of the said Lord the King more fully appeareth: By pretence whereof the said I C not only underwent many greivous labours and pains, but also was compelled to pay the said forty one pounds six shillings eight pence, by reason of the said judgment, to the damage of the said I C of one hundred pounds, and thereof prayeth remedy, &c. Pledges, &c. The Defendant pleaded not guilty. Verdict for the Plaintiff. And the Jury assessed for damages forty five pounds, and for costs fifty three shillings four pence.

And hereupon the premises being seen, and by the Justices here fully understood, because it appeareth to the Court here, that the matter in the Bill and Declaration aforesaid contained is insufficient in law, to maintain the said I C to have his said Action against the said H, therefore no respect had to giving of the said verdict for the aforesaid I C, it is said by the Court here to the said H, that he go there of without day, &c.

Judgment that the Defend. go without day of the verdict.

H 6. Jac. rot. 706. Brownlow. Midd. ff. G against H an Attorney for appearing to an Original, and giving judgment without Warrant fl. 15 P. At which day here cometh the Plaintiff by his Attorney: And the said H as Attorney of the said S, and without the command, liberty or knowledge of the same S, for the same S at Westmin. aforesaid, at the said fifteen P appeared to that Writ, whereupon the said T W declaring against the said S, &c. Suit, &c. And the said H falsely and deceitfully, as Attorney of the said S, for the said S, without the command, liberty or knowledge of the said S then appeared and defended the force and wrong when, &c. and as Attorney of the said S, without the liberty, command or knowledge of the said S, then said, that he was not informed, &c. the Plaintiff in mercy, &c. whereas in truth the said S did not owe unto the said T W the said fourteen pounds fourteen shillings, nor any penny thereof in that form, as the said T W declared against him. By reason of which said falsity and deceit used by the said H, the said S was not only much bereaved in his goods and body, but also compelled to pay the debt and damages aforesaid, in the whole amounting unto sixteen pounds fourteen shillings, and to disburse some other sums of money, to the damage of of the said S of forty pounds, and prayeth remedy, &c. Pledges, &c.

Cause against an Attorney for appearing to an original, & giving judgment without warrant.

The Defendant pleaded not guilty.

See H 34. Eliz. rot. 1452. Brooker. Case brought in Midd. against W C an Attorney.

H b

H s.

Action upon the Case against a Clerk Vicar of R, upon an assumption to the Pl. that if the Pl. would cease his suits which he had against him, the Def would resign his Vicaridge to the Pl. &c. and shews that he was arrested by Lattitac at his suit. Gift of a donative Benefice pleaded.

A Lattitac sued out.

The Writ re- cited.

The Writ delivered to the Sheriff.

The Sheriff sends his Warrant to the Bayly of the liberty.

The Defend. arrested upon the said Writ and Warrant.

Consideration to stay suits.

H 5. Jac. rot. 2863. Hertf. H. I. C. was attached to answer T. B. Knight of a Plea, wherefore, &c. And whereupon the said T. by H. E. his Attorney complaineth, that whereas the said T. is, and by the space of ten years now last past was seised of the gift of the Vicaridge of the Church of R. aforesaid, in the County aforesaid, as in fee and right; which said Vicaridge is, and from the whole time, whereof the memory of man is not to the contrary, was, a Vicaridge donative. And the same T. and all those whose estate he hath in the donation of the said Vicaridge, by the whole time aforesaid have used, and were accustomed (whensoever it should happen the same Vicaridge to be vacant) at his pleasure to give that Vicaridge to any Clerk, to be held by such Clerk for term of his life. And also whereas the said T. being seised of the donation of the Vicaridge aforesaid, in form as aforesaid, the twenty fourth day of August, Anno 44. of Queen Eliz. at R. aforesaid, gave the said Vicaridge, then vacant, to the said I, to hold to the said I for term of his life: and thereupon the said I, by virtue of the said gift, became, & yet is Vicar of that Vicaridge. And also whereas the eighteenth day of May, in the year of the Lord the King now the fifth, at R. aforesaid, divers strifes, discords, and controversies were risen between the said T. and the said I, of divers trespasses, greivances, and injuries, by the said I to the said T. before that time committed and done. And the said T. the same eighteenth day of May, Anno 5. abovesaid, at Westminster the County of Midd. for remedy against the said I for such trespasses, greivances, and injuries to the said T. by the said I before that time done and committed, did prosecute out of the Court of the said Lord the King, before the said King holden (the same Court at Westminster in the County of Midd. then being) a certain Writ of Lattitac of the said Lord the King, directed to the Sheriff of Hertf. commanding him, that he should take the said I if he should be found in his Bailiwick, and him safely keep, so that he should have his body before the said Lord the King at Westminster. aforesaid, in the said County of Midd. on Saturday next after eight dayes of the holy Trinity then next following, to answer the said T. in a Plea of trespass; and that the said Sheriff should then have there that Writ, which said Writ, afterwards and before the return thereof, to wit, the sixth day of June, Anno 5. abovesaid, at R. aforesaid, was delivered to L. H. Knight, then Sheriff of the said County of Hertf. at R. to be executed in form of law. And the said Sheriff of the said County of Hertf. in the executing of the said Writ to him in form aforesaid directed and delivered, afterwards, to wit, the same sixth day of June, Anno 5. abovesaid, at R. aforesaid, by his Warrant in writing duly made upon that Writ, commanded Z, otherwise A, Knight, then Bayliffe of the liberty of the said Lord the King of St. Albans, in the said County of Hertf. who had the full return and execution of all Writs within that liberty, that he should take the said I if he could be found in his Bailiwick, and him safely keep, so that the said Sheriff might have the body of the said I before the said Lord the King at Westminster aforesaid, on Saturday next after eight dayes of the holy Trinity, to answer the said T. in a Plea of Trespass.

And the said R. Z, otherwise A, afterwards and before the return of the said Writ and Warrant, to wit, the eighth day of June, Anno 5. abovesaid, at R. aforesaid, by virtue of the said Warrant to him in form aforesaid directed, took the said I, and the said I in his custody under the rest had and detained (the said John then Vicar of the said Church of R. being.) And the same I then and there, to wit, the aforesaid eighth day of June, Anno 5. abovesaid, at R. aforesaid, in consideration that the said T. at the special instance and request of the said I would surcease to prosecute all Suits and Actions which the said T. then had against the said I, did assume upon himself, and to the said I then and there

there faithfully promise, that he the said I at the feast of St. Michael the Archangel then next following, would resign the said Vicaridge of the said Church of R aforesaid to the said T, being seised of the gift of the Vicaridge aforesaid, in form aforesaid, so that the said T (being seised of the gift of that Vicaridge in form as aforesaid) might at his pleasure after such resignation, give the said Vicaridge to any other Clerk.

And the said T saith in fact, that he giving credit to the promise and assumption of the said I, all Suits and Actions which the said T, at the time of the promise and assumption aforesaid made, had against the said I, from the time of such promise and assumption made, hitherto did surcease and in no wise prosecute.

Nevertheless the said I his said promise and assumption little regarding, but intending the said T in this behalf craftily to deceive and defraud, although often requested, the said Vicaridge of R aforesaid hath not resigned it unto the said T, according to his said promise and assumption, but the said Vicaridge to resign hath denied, and still denieth, whereupon he saith, he is the worse, and hath damage to the value of forty pounds, and thereupon bringeth suit, &c.

Defendant pleads, did not assume.

TRin. 11. Jac. rot. 3315. Brownlow. Essex. ff. A H &c. was attached to answer T. S &c And whereupon the said T by R P his Attorney complained, wherefore the same T being a good, true, faithful, and honest Subject of the Lord the King now, and as a good, true, faithful, and honest Subject of the said King now, and of the Lady Eliz. late Queen of England, Predecessor of the said Lord the King, from the time of his nativity hitherto, carrying and behaving himself, and of good name, fame, conversation, and gesture, as well amongst his neighbors as other honorable, worshipful, faithful Subjects of the said Lord the King, and the said late Queen, to whom the said T was known, without any suspicion of theft, felony or robbery, or of any other hurtful crime, by the whole time aforesaid clear and unsuspected remaining.

Notwithstanding the said A not ignorant of the premises, but thinking, and maliciously intending, the same T, not only in his good name, fame, credit, and estimation, wherein before he was, wickedly to hurt, detract, and make worse, but also to induce and bring him the said T into peril of losing his life, and forfeiture of all his Goods and Chattels, the twentieth day of May, Anno Reg. 6. at Chelmsford (a conspiracy between the said A and one R W precluded) falsely and maliciously, without any colour or cause of any felony, theft or robbery by the said T ever committed, the said T for a certain felony by the same T the four and twentieth day of April, Anno Reg. 6. aforesaid, at Ugly in the County of Essex supposed to be done (where in truth no felony was committed by the said T) procured to be arrested, and at the general Gaol-delivery for the said County of Essex held, before T W Knight, then one of the Justices of the common Bench, and I C Knight, then one of the Justices of the King, assigned to hold Pleas, &c. being Justices of the said Lord the King, assigned to deliver prisoners out of the Gaol, being therein imprisoned, and Justices of the King to keep peace in the County aforesaid, and also assigned to hear and determine divers other felonies, trespasses, and misdemeanors in the same County committed and done, at C aforesaid in the said County of E, on Sunday the fourth day of July, Anno Reg. 6. aforesaid, the same R by the procurement and instigation of the same A, and by the said conspiracy between the said A, and the aforesaid R at C aforesaid, as is premised, had, to detain the said T S, and to endanger the loss of his life and forfeiture of all his Goods and Chattels, Lands and Tenements, and to cause him to be examined as a Thief and Robber, did then

Assumption to resign the benefice.

The Plaintiff stayed suits,

The promise broken for not resigning his Vicaridge.

Trespass upon the case in the nature of an Action of conspiracy brought against A for procuring the Plaintiff to be arrested for a felonious robbery, and after indicted him before the Justices at the Goal-delivery, upon which indictment the grand Jury brought an Ignoramus, and the Plaintiff was acquitted. The grievance

The stile of the Justices by their Commission.

Stamford, pleas of the Crown, fol. 105. abbatismenium anglice encouragement, Cowel Interpreter, to abbatismenium

Recital of the
Indictment for
a robbery in the
Kings high-
way.

The goods con-
tained in the
Indictment
supposed to be
stolen.

The Bill exhib-
ited to the
Justices of As-
size.

Delivery of the
Bill of Indict-
ment by the
Justices to the
grand Inquest.

Ignoramus
found by the
grand Inquest.

The damage.

and there falsly and maliciously impose upon him the crime of the said said to long by him the said T S supposed to be done, and then and there caused a certain Bill of indictment to be writtten against the said T S, containing in it this false and scandalous matter following, that is to say, that the same T S by the name of T Slate of Ugley in the County aforesaid Poultiferer, the thwenty fourth day of April, in the year of the reign of our Sovereign Lord the King now of England, France, and Ireland, the sixth, and of Scotland, the forty first, with force and arms, &c. at Ugley aforesaid, in the County aforesaid, in the Kings highway there, in and upon the said R, then and there in the peace of God and the said Lord the King being, did feloniously make an assault and then and there put the said R in corporal fear of his life, and one cloak to the value of twelve shillings, one hat to the value of eight shillings, and thirty shillings in moneys numbred of the goods and chattels of the said R W, and three yards of cloth to the value of five shillings, of the goods & chattels of one P W in the custody of the said R then and there found, from the person of the said R feloniously did take and carry away, against the peace, crown, and dignity of the said Lord the King. And the said Bill of indictment, in form aforesaid writtten, containing in it the false, malicious, and scandalous matter before recited, the said R by the abetment, procurement, conspiracy, and instigation of the said A, afterwards, to wit, the said fourth day of July, Anno Reg 6. abovesaid, exhibited to the then Justices of the said Lord the King, for the Goal-delivery for the County of E aforesaid, assigned for deliberance of prisoners therein being, and also Justices of the said Lord the King, for keeping of peace in th. said County, and also assigned for hearing and determining of divers felonies, trespasses, and other misdemeanors in the said County done and committed. Which said Bill the same Justices then and there received of the said R, and caused publicly to be read, and thereupon then and there delivered it to the Jurors of the grand Inquest for the said County of E, then and there burthened and sworn upon Gods sacred Evangelists, for the deliberance of the said general Goale, and to inquire and present the truth of the matter in the said Bill contained: whereupon the said R by the abetment, procurement, conspiracy, and instigation of the said A, afterwards, to wit, the fourth day of July, Anno Reg 6. abovesaid, at the said Goal-delivery, for the body of the said County of E at C aforesaid, before the then Justices, assigned, as is premised, for deliberance of that Goale, and also Justices for keeping of the peace of the said Lord the King in the County aforesaid, and also assigned to hear and determine divers felonies, trespasses, and other misdemeanors in the said County done and committed, falsly, maliciously, and scandalously gave in evidence upon his oath, that the aforesaid matter in the Bill aforesaid contained was true, whereas in truth the matter contained in the said Bill was false, feigned, and scandalous, and by the said R, by the abetment, conspiracy, procurement, and instigation of the said A aforesaid, maliciously raised and devised, without any just cause, as it then fully appeared to the said Jury.

And for that reason the said Jurors after evidence to them giben, then and there gave their verdict and answer of and concerning the said Bill, and that the said Jurors were ignorant of and concerning the said matter specified and contained in the said Bill of indictment. By pretence of which said premises the said T S is not only much hurt in his goods, name, fame, opinion and credit aforesaid, but also many labours, miseries, troubles, as well by imprisonment of his body, as also in disburking and expending of his money in that behalf for his said clearing and discharge, was compelled to undergo and expend, to the damage of the said T S of five hundred pounds, and thereupon bringingeth suit, &c.

The Defendant pleads not guilty, And after a trial at barre, verdict for the Plaintiff. And afterwards Error brought. And afterwards the parties agree.

PIO Eliz. Rot. 1288. J G to answer I M of a Plea wherefore the same Trespass on the I M, the twentieth day of August Anno Reg. 7. at London, at the Parish of case for sale of Saint Dunstons in the West, in the Ward of Farringdon without, was Goods, and possessed of eleven dozen of Carlepes, to the value of twenty pounds, as of conversion of his own proper Goods and Chattels, and being so thereof possessed, the money to his said Goods and Chattels afterwards to wit, 1. September, Anno 7. abovesaid, at London, in the Parish and Ward aforesaid, out of his possession casually lost, which said Goods and Chattels, afterwards, to wit, the fourth day of September, Anno, 7. abovesaid, at London in the Parish and Ward aforesaid, came to the hands and possession of the said I G. Nevertheless the said I G, although often by the said J M required the Goods and Chattels aforesaid unto the said J M, hitherto hath not delivered, but the said I G knowing the Goods and Chattels aforesaid, to be the proper Goods and Chattels of the said I M, and intending craftily to deceive and defraude the said I M of those goods and chattels, afterwards, that is to say, the tenth day of September, Anno 7. abovesaid, at London in the Parish and Ward aforesaid, bargained and sold the said goods and chattels to certaine persons to the same I M unknown for certaine summs of money, between the said I G, and the aforesaid persons, unknown, agreed upon, and the money from thence coming to the proper use and profit of the said I G, did convert to the damage of the said I M of thirty pounds, &c.

Sale of the Goods.

TRin. 14. Jac. Rot. 2022. Brownlow, Dorff. ff. H G clerk was attached to answer H S of a Plea that whereas the said H G the 25. of November 1614. and long before was, and yet is Parson of the Church of B lawfully impersonated in the same, having the cure of souls of the Parishoners of that Church by the whole time aforesaid: And also whereas the same H G at R aforesaid, retained the said H, then being a Deacon, to serve the cure of the said H G of the said Church of B, one whole yeare then next following, for fourteen pounds of lawfull money of England, for his salary to be paid by the said H G, by virtue of which retention the said H S, the cure of the said Church morning and evening Prayers, Sacraments, and Sacramentalls and other rights ecclesiasticall in the same on Sondays, and Festivalls, and other usuall dayes celebrated and kept by the Parishoners of the said Church, by the five moneths next after his said retainer, for the said H G did serve, and the same H S so serving the cure of the said Church, the fourth day of May, Anno 1615. at B aforesaid a certain communication was had between him the said H S, and the said H G, that in case that the said H S would forsake and give up the cure of the said Church, before the end of the same Terme between them agreed upon, so that the said H G might place any other able clerke to serve the same cure in the same, the same H G, then and there upon that communication, in consideration of the Premises, and that the said H S would forsake & give up the cure of the said Church, so that the said H G might place any other clerke when he would in the same, upon himselfe did assume, and to the said H S then and there faithfully promise, to pay to the said H S ten pounds of lawfull money of England, when afterwards he should be thereunto required: And although the said H S upon hope of the faithfull promise and assumption of the said H G aforesaid, did forsake & give up his said cure of the Church aforesaid, so that the said H G might place any other able clerke whom he would in the same: Nevertheless the same H G his promise and assumption aforesaid little regarding, but minding and fraudulently intending him the said H S of the said ten pounds, craftily, and subtilly to deceive, and defraude, the same ten pounds, or any penny thereof (although this to doe by the same H S, afterwards, to wit, the twentieth day of May, Anno 1615. abovesaid, and of ten afterwards at B aforesaid, was requested) hath not paid, or any wayes consented, but the same to him to pay hath refused, and yet refuseth to the damage

Case upon promise that if the Plaintiff would relinquish his cure, the Defendant would give him ten pounds.

See the Book of Entries, in Action upon the case, the first Chap. fo. 2. such forme of pleading. Conference.

Consideration.

Assumption.

Breach of promise.

Damage. damage of the said HS of forty pounds. And thereof brings Sute, &c. Not guilty.

Case upon promise that if the Plaintiff would procure the Defendant to become tenant to I S of a messuage, he promised the Plaintiff one hundred shillings.
Consideration.
Assumption.

Performance of the consideration.
Breach of promise.

IRin. 14. Jac. Rot. 2031. Brownlow. Norff. ff. MB late &c. was attached to answer R H of a Plea that whereas the same M the 22 day of Decem. An. &c. 12. at S, in consideration that the sayd R at the speciall instance and request of the said M would take paines, and procure the same M to be Tenant to T P Citizen and Alderman of Norwich of his Inn called the Bull in L in the County aforesaid, upon himselfe assumed, and to the said R then and there faithfully promised, that he the sayd M a hundred shillings of lawfull money of England to the same R when he should be thereunto requested, well and truly would content and pay: And although the sayd R upon hope of the faithfull promise and assumption of the sayd M aforesaid, afterwards, that is to say, the six & twentieth day of Decem. Anno 12. abovesaid, at S aforesaid did take paines, and procured the said T P, then being seised of the aforesaid Inn, with the Appurtenances in his demesne as of fee, to let the said Inn to the said M for one year then next following, and the said M to be tenant of the said T P in the Inn aforesaid: Nevertheless the said M his promise and assumption aforesaid, little regarding, but minding, and fraudulently intending him the said R, of the said one hundred shillings, craftily to deceive and defraud, the same one hundred shillings to the said R, according to his promise and assumption aforesaid, hath not paid, although, &c. Lay a request Specialment.

Defendant pleadeth, non assumpsit.

Case for words spoken in slander of the person.
The Defendant justifies that the Plaintiff stole three Ewes from I S, whereupon he spoke the words in the Declaration.

H. 11. Ja. Rot. 2177.

IRin. 12. Ja. Rot. 130. Brownlow. London ff. T C declares in a general form against F W for speaking these words following, He is a thief, and why will you take his part, spoken the 1. of March, Anno 10. Ja. damage is laid to forty pounds, to which the Defendant pleadeth as follows. And the said F saith, that the Plaintiff ought to have no Action, because he saith, that before the said time of speaking and uttering of the said words in the Declaration aforesaid, above supposed to be spoken, that is to say, the last day of August, Anno, Eliz. Reg. 36. the said T C with force and armes, &c. apud C in the County of Surry, three Ewes of seven shillings price, of the Goods and Chattels of one R G, then and there found, feloniously stole, tooke, and carried away, whereby the said F the first day of March, Anno 10. abovesaid, at London in the Parish and Ward aforesaid, said of the said T, the aforesaid words in the Declaration aforesaid, above specified, that is to say, he is a thief, and why will you take a thieves part, as he lawfully might, and this he is ready to verifie: And prayeth Judgement if, &c. See Hill. 11. Ja. Rot. 2177. Brownlow. Leic. inter L and H, Case for words as above, the Defendant justifies the words as above, the Plaintiff replies, that the offence was pardoned. The Defendant demurs in Law generally.

The Plaintiff replies that there was a general pardon in 7. Jac. by Parliament, after the supposed Felony committed.

And the said Plaintiff ought not to be barred, because by profection that he did not steale the three Ewes, nor any one of them, as the said F above alleadgeth, for Plea he saith, that the said Felony above supposed to be done, & before the speaking, publishing, & pronouncing of the said words in the said Declaration above specified, it was enacted by a certaine Act of Parliament, of the King now held at Westminster, in the County of Midd. the ninth day of February, Anno, &c. 7. and established by the Authority of the same Parliament, that all and every Subject of the said Lord the King, as well spirituall as temporall, of this Realme of England, Wales, the Isle of Garnsey, and the Towne of Barwick, their Heires, Successors, Executors, and Administrators of them and every of them, and all and singular Corporations in any manner incorporated Cities, Burroughes, Counties, Hundreds, Lathes,

Laths, Mapentacks, Villages, Hamlets, and Tithings, and every of them, their Successors, & the Successors of every of them, by the Authority of the same Parliament are acquitted, pardoned, released, and discharged against the said Lord the King now, his Heires and Successors, and every of them, of all Treasons, Felonies, Offences, Contempts, Trespasses, Injuries, Deceits, Misdemeanors, Forfeitures, Penalties, &c. And generally in all Causes, Complaints, Suits, Judgements, and Executions in the said Statute not excepted, nor forepysed, which by the said Lord the King now, by any meanes, or by any way could be pardoned before, and untill the nineteenth day of November then last past, before the making of that Parliament, to all and every Subject of the said Lord the King of every Corporation, City, Burrough, &c. and every of them, as by the said Act more fully appeareth, and the said T further saith, that the aforesaid Felony above supposed to be done (if any such were) is not excepted, nor forepysed in the said Statute, and that he is, and at the time of the said making of the Statute, was a Subject of the said Lord the King now, borne under the obedience of the Lady Elizabeth late Queen of England, that is to say, at London in the Parish and Ward aforesaid, and that he is no person excepted, and forepysed out of the said Act, and this he is ready to verify, whereupon for that the felony aforesaid, above supposed to be done, is alleadged by the said F, to be done and committed, before the said nineteenth day of November, Anno 7. above said, and that the said F confesseth the speaking, and publishing of the said words, to be after the making of the said generall Act of pardon, the same T prayeth Judgement and his damages, by occasion of the speaking, publishing, and pronouncing of those words to be adjudged him &c.

The Felony pleaded in Bar by the Defendant supposed to be committed, is not excepted in the said Act, and that the Plaintiff is a Subject borne.

Towse. Thomas Harris.

And the said F saith, that the said Plea of the said T above in replication is pleaded insufficient in law, for the said T to have his Action against the said F in this, to wit, that the said T hath not traversed in his replication, that he after the aforesaid Pardon in forme aforesaid granted, had not committed any such Felony as the said F had above alleadged, as by the Law of the Land in the end of his Replication aforesaid, he ought to have alleadged, to which said Plea in manner and forme aforesaid pleaded, the said F hath no necessity, nor is held by the Law of the Land to answer: And this he is ready to verify, for whereupon defect of sufficient Plea of the said T, in this behalfe, the said F prayeth Judgement, and that the said T may be barred from having his said Action against him, &c.

A Speciall demurre to the replication of the Plaintiff, Cause of demurrer.

Hutton.

And the said T, whereby he sufficient matter in Law, for him the said T to have and maintaine his said Action against the said F above alleadged, which he is ready to verify, which said matter the said F doth not gainesay, nor giveth any answer thereunto, but doth altogether refuse to admit of that justification, as before he prayeth Judgement, and his damages by occasion of the speaking, publishing, and pronouncing of the said words to be adjudged him, &c. And because, &c. Judgement is given for the Plaintiff upon the demurrer: And a Writ to inquire of damages awarded, and the damages in the whole are ten pounds: And the Defendant in mercy, &c. And a Writ of Error brought upon it.

Mercy.

TRin. 5. Ja. Rot. 1106. Brownlow. Suff. ff. S B against I S for speaking these words, 1. February, 45. Eliz. to wit, Thou (meaning the Plaintiff) dost suborne and procure Heywards wife (the wife of one W H meaning) and I N to forswear and perjure themselves for thee (the Plaintiff meaning) against

against W (one R W meaning) at the last Assizes at Bury, and that I (the Defendant meaning) will justify and prove, The Defendant pleads that at another time, to wit, Trin. 1. of King James, the Plaintiff brought a Bill in the Kings Bench against the Defendant for the same words spoken, 10 Jan. 45. Eliz. in which Action the Defendant justified, that the Plaintiff did suborne the said H his wife, and N upon an issue tried at Bury Assizes, July 44. Eliz. it was an Action of Trespasse brought by him against W, and one or other, and whereupon he spake the words in the Declaration, to which W the Plaintiff replies, that it was of his owne wrong, &c. And afterwards upon a Ni. pri. 1. Ia. Reg. The Jury found that the Plaintiff did suborne, &c. as the Defendant had above in Pleading alleadged, and afterwards Judgement was given in the Kings Bench, against the Plaintiff, with five pounds costs, and saith further, that the said tenth of February, 45. Eliz. for that that the Plaintiff had suborned, &c. he spake the words in the Declaration, as it was lawfull for him, &c. And this he is ready to verifie, whereupon, for that it manifestly appeareth to be true, that the said tryal was a good and lawfull tryall of the Issue aforesaid, between the said I S now Plaintiff, and the said S now Defendant by the Verdict of twelve free and lawfull men of and upon the Premises in forme aforesaid, above given, as also by the Law of the Land, of this Kingdome of E, that the said J did unlawfully procure and suborne the aforesaid S H, and I M to commit voluntary perjury, in forme as aforesaid, and that the said S spake of the same I, the said English Words in the Declaration aforesaid, above specified, the cause aforesaid being a good and just cause, lawfully tried as is premised, and not of any injury, &c. the same S prayeth Judgement if, &c. Robert Barker, Houghton demur in Law, See the Judgement, see the cause of such demurrer, if it be not for that, he justifies the speaking of the words, February 45. Eliz. by force of a tryall, Trin. 1. Ia. which was before the tryall, &c.

Case upon
promise to
make an assu-
rance of Land.

Hill. 7. Jac. Rot. 1921. Crompton. Suff. ff. L B was attached to answer J P, and whereupon the said I by R S his Attorney complaineth that whereas the said L the first day of Aprill in the fortieth yeare of the reigne of the Lady Elizabeth late Queen of England, was seised of one Messuage, and one Garden, with the Appurtenances in Sudbury in the County aforesaid, in his demesne as of fee, and whereas also the said L being to thereof seised, the same day and yeare at S aforesaid, a certaine conference was had and moved, between the said L and the said I of and concerning the selling and assuring of the said Messuage and Garden with the Appurtenances to the said I and his Heires by the said S to be made, the said L upon that conference, then and there, that is to say, the same first day of Aprill, Anno 40. abovesaid, at S aforesaid, in consideration of ten pounds of lawfull mony of England, by the said I to the said L then and there before hand paid, and forty pounds of lawfull mony to be paid by the said J, to the said L, after assurance of the aforesaid Messuage and Garden with the Appurtenances to be made by the said L, to the said I and his Heires in manner and forme following, to wit, ten pounds yearly, the foure next years after that assurance made, and in consideration that the said I then and there upon himselfe had assumed, and to the said L then and there faithfully promised, that he the said I immediately after the assuring of the said Messuage and Garden with the Appurtenances by the said L, to the said I and his Heires, that he would give to the said L sufficient security for the payment of the said forty pounds to the said L, his Executors, and Administrators, to be made in manner and forme aforesaid, that is to say, 10 l. yearly, during the four years after the assuring of the said Messuage and Garden with the Appurtenances, as aforesaid payable, upon himselfe did assume, that he the said L would well and faithfully make to the said I and his Heires, to the use of of the said J and his Heires, a good and lawfull convey-

Considerati-
on, part is exe-
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ecutory.

Another con-
sideration exe-
cutory.

ance

ance and assurance in Law, of the said Messuage and Garden with the Appurtenances, when thereof he should be required, and although the said J, after his promise and assumption as aforesaid made, was alwayes hitherto ready to give to the said L sufficient security for the payment of the said ten pounds to the said L, his Executors, or Administrators, in manner and forme aforesaid, that is to say, ten pounds yearly, during the foure yeares, after the assuring of the said Messuage and Garden with the Appurtenances by the said L to the said I as aforesaid.

Peverthelesse the said L his promise and assumption aforesaid, little regarding, but intending the said J in this behalfe, craftily, and subtilly to deceive and defraud, hath not as yet made to the said I and his Heires, any good conveyance and assurance of the Messuage and Garden aforesaid, and lawfull with the Appurtenances although hereunto the said L, by the said I afterwards, to wit, the last day of Aprill, Anno Reg. 44. at S aforesaid was thereof requested, but the same to the said J to make altogether refused, and yet refuseth, whereupon he saith, &c. damages forty pounds, and thereupon he bringeth Suit, &c. Defendant pleads non assumpsit, and Verdict given for the Plaintiff, and damages to eight and twenty pounds: And the Defendant in mercy.

Error brought.

P 40. Eliz. Rot. 1906. Brownlow. Wiltes, ff. G C against I M, and whereupon the same G by A H. his Attorney complaineth, that whereas the same G is a good, true, and faithfull leige Subject of the Lady Elizabeth now Queen of England, and as a good, true, and faithfull leige Subject of the said Lady the Queen from the time of his Pativerty hitherto hath behaved and carryed himselfe, and was noted to be of good name, fame, conversation, and reputation, as well with the said Lady the Queen, as others other honorable and venerable persons, and all other faithfull Subjects of the said Lady the Queen to whom he was known, and with whom the said G had any society, or inter-course of Affaires, by the whole time aforesaid, was held, called, and reputed, and also as a faithfull and honest Subject of the said Lady the Queen, without any reproach of evill behaviour, frequentor of Tavernes, or of Alehouses, drunknesse, calumnie, evill speaking of Magistrates and Gentlemen, or contempt of authority, or of any falsehood, or hurtfull crime, or suspicion of them, hitherto hath remained and continued untouched, and innocent: By reason of which said good name, fame, conversation, & reputation, the same G the tenth day of Aprill, Anno Reg. 26. at C S in the County of Wiltes, was received and accepted into the service of the said Queen, to serve her in the office of a messenger of her Chamber, and also sent and imployed in divers inter-negotiations, and other imployments of the said Queen, by the command of the said Lady the Queen, of secrecy, weight, and moment, from the said tenth day of Aprill, An. 26. abovesaid, untill the last day of Aprill, Anno 36. of the said Lady the Queen, and her private Counsell.

And the said G by reason of his faithfull service in the aforesaid Office, divers great Profits, Emoluments, and sums of money of the said Lady the Queen, and likewise of the Privy Counsell of the said Lady the Queen, and divers other Subjects of the said Lady the Queen, lawfully, and honestly acquired and obtained to himselfe, to the greater and more ample maintenance and sustaining of himselfe, and his Family.

Peverthelesse the said I M, not ignorant of the Premises, maliciously in labouring and intending the same G, not only of his goods, name, fame, credit, estimation, and reputation, whereof he was at that time indowed, to lessen and deprive, but also to bring and induce him the

Breach of promise.

Request.

Mercy.

Trespasse upon the case for standing the person for that the Defendant delivered a scandalous petition against the Plaintiff, to the Justices of Peace in the County of S, and the said Justices delivered it to the Privy Counsell of the Queen, the Plaintiff being a messenger of the Privy Chamber.

said G, into scandall, reproach, displeasure, and evill opinion, as well with the said Lady the Queen, as other honorable and worshipfull persons, and other Subjects of the said Queen, with whom the said G had been known, to the intent and purpose that the said Lady the Queen, him the said G, from his service, in the office aforesaid, might altogether remove and expell, the fifteenth day of Aprill, Anno Reg. 36. at CN aforesaid, a certaine petition directed to W M Knight, and other Justices of the said Lady the Queene, assigned to keep the peace in the County aforesaid, against the said G, falsely, maliciously, and scandalously, caused to be written, and thereunto subscribed his owne hand, and also affixed to the same petition, the common Seal of the Mayor and honest men of G aforesaid, in the County aforesaid, suggesting, and affirming by that petition to the said W M Knight, and other Justices of the said Lady the Queen, assigned to keep the peace in the County aforesaid, That whereas the same G C then of G aforesaid, in the said County of S, about the Feast of Saint Michael the Archangel, then last past, came from the City of Westminster, to inhabit at G aforesaid, where he with his wife and family ever afterwards remained, during which time, and more specially, then lately before, and continually afterwards he continued, of a wicked and pernicious gesture, and deportment, commonly frequenting Tavernes, and Ale-houses, living idly, and also then was a common drunkard, a slanderer, and contentious person, using wicked and pernicious words, as well against divers Gentlemen of very good esteem and degree, as also against Magistrates, and other inferior Officers, thereby shewing his contempt of all authority, and intimating a great probability, to be, and prove a dangerous, and pernicious person to the Common Wealth, if his malicious, and arrogant minde, be not by due course of Law, in due time repressed: In consideration whereof, the Mayor and honest men of G aforesaid, humbly supplicated the said Justices, that they would be pleased to call him before them, and either compell him to finde good security for his good behaviour afterwards, or otherwise to take some other good course according to their discretions, for preventing of further danger and damage, which might arise if he were suffered to live as he then lived: In performing whereof the said Justices would doe a good worke, and oblige them, and all other inhabitants of the said Towne, to pray for their prosperous estates, dated in the Guild-hall in G aforesaid under the common Seal, the fifteenth day of Aprill, Anno Reg. &c. 36.

The forme of the petition.

John Mills.

And the said I M that petition, so written, directed, sealed, and subscribed, afterwards, to wit, the last day of Aprill, Anno &c. 36. aforesaid, at CN aforesaid, maliciously, and scandalously, to the said W M, exhibited, delivered, and published, by reason whereof the said G is not only much hurt and dammified, in his goods, name, fame, estimation, and reputation aforesaid, but also excluded, and deprived from the exercise of his said Office, by the Privy Counsell of the Queen, untill such time as he shall acquit and clear himselfe of the said false and malicious scandall and accusation, and the said G upon that occasion was enforced, and compelled to issue forth, and expend great sums of money, for the manifestation and declaration of his innocency, and his purgation herein, and also divers great sums of money in the exercise of his Office aforesaid, which he might have lawfully gained, and acquired, if he had not been secluded his said Office as is premised, he altogether lost to the damage of the said G, of forty pounds, &c.

The Damage.

The Defendant saith that G is a Corporation,

And the said I M by TS, his Attorney cometh, &c. and saith, that the said G ought not to have his Action, &c. because he saith, that G aforesaid (whereof the Plaintiff is resident there, and of evill behaviour, and that the said Corporation (whereof the Defendant is one) have authority to punish him, and petitioned the Justices, &c.

was, and by the whole time, &c. And also from the time whereof the memory of man is not to the contrary, yet is an ancient Burrough, and an ancient Corporation incorporate, by the name of the Mayor and honest men of the Towne of G aforesaid, in the County of Surrey, and also that the said G at the time of the exhibition of the said Bill, and long before inhabited at G aforesaid, and there continually continued of an evil and pernicious gesture, and deportment, commonly frequenting Tavernes and Alehouses, an idle liber, and then was a common drunkard, a slanderer and contentious person, using wicked and pernicious words, as well against Gentlemen of very good esteem and degree, as also against Magistrates, and other inferior Officers, thereby shewing his contempt to all authority, and intimating a great probability to be, and prove a dangerous and pernicious person to the Common Wealth, if his malicious and arrogant minde, be not by due course of Law in due time repressed. by reason whereof the said Mayor and honest men of G aforesaid, of whom the said I M was then one of the honest men of the same Towne, having no authority to correct or punish any malefactor, the same I M the last day of April. Anno Reg. 36. at C M aforesaid, exhibited and delivered to the said W M Knight, and other Justices of the said Lady the Queen, assigned to keepe the peace in the County of Surry aforesaid, testifying by that petition the evil behaviour of the said G, which petition the said Mayor and honest men, of whom J M was one of the honest men of the said Towne, the aforesaid fifteenth day of Aprill Anno 36. abovesaid, truly and justly caused to be written, and to that petition subscribed their own hands, and also put to the said petition the Common Seal of the Mayor and honest men of G aforesaid, in the County of Surry, in which said petition the said Mayor and honest men of G aforesaid, at G aforesaid humbly supplicated the said Justices, that they would be pleased to call him the said G before them, and either compell him to finde good security for his good behaviour afterwards, or otherwise to take some good course according to their discretions, for preventing of further danger and damage which might arise if the same G were suffered to live as he then lived, as to them it was lawful: And this he is ready to verifie, and whereupon he prayeth Judgement if, &c. The Plaintiff demurred generally, and the Defendant joyned in demurrer, and Judgement was given against the Plaintiff. See Coke 4. fo. 14. B. Cutler and Dixons Case, adjudged in Mich. 27. & 28. Eliz. In the Kings Bench if one exhibite Articles to the Justices of Peace (as this case is) against one, complaining of great abuses, not only touching the petitioners, but others, to the intent that he might be bound to his good behaviour, there the party accused, shall not have any remedy by Action upon the Case for any matter contained in such Articles, because it is in pursuance of the ordinary course of Justice, and therefore now shall be punished. And so it was held Mich. 11. Jac. In the Common Pleas in Bradleys Case.

Judgement for the Defendant after demurrer.

Articles exhibited to a Justice of Peace, are not punishable by an action of the case.

Mich. 13. Jac. Rot. 712. Brownelov. London ff. T B was attached to answer A L of a Plea, that whereas the said T, the tenth day of July, Anno Reg. &c. 9. at London, in the Parish, &c. one Patrick Mann feloniously, and against the Peace of the said Lord the King had killed: And the said T after the said felony committed, to wit, the tenth day of September, Anno 9. abovesaid at London, in the Parish and Ward aforesaid, did earnestly request, and solicit the said A, to indeavour, and take paines, for the obtaining of the Kings Letters Patents of Pardon, for the said felony by the said T as aforesaid committed: Whereupon the said A at the aforesaid instance and request

Case brought upon a promise to pay one hundred pounds, in consideration that the Plaintiff would indeavour to obtaine a pardon

from the King for the Defendant, for a felony which the Defendant before that time committed.

The Plaintiff
doth hisindea-
vour.

of the said T by all lawfull meanes and wayes, that he could for many dayes laboured and indeavoured to obtaine the Kings letters Patents of Pardon, for the Felony aforesaid, in Riding, and Journing at the owne proper costs and charges of him the said A from London aforesaid, and the Parish and Ward aforesaid, unto the Towne of Royston, in the County of Cambridge, where the said Lord the King was then abiding, and from thence back againe unto London aforesaid, for the obtaining, for the said T, the Kings Letters Patents of Pardon, for the said Felony by the said T as aforesaid committed, the same T afterwards, to wit, the fourteenth day of September, Anno Reg. 10. at London, in the Parish and Ward aforesaid, in consideration of the Premises, upon himselfe did assume, and to the said A, then and there faith- fully promise, that he the said T one hundred pounds of lawfull money of Eng- land, to the said A, when he should be thereof required well and faithfully would content and pay: Nevertheless the said T his promise and assump- tion aforesaid, little caring, but intending the said A of the said one hun- dred pounds, craftily to deceive and defraud, the said one hundred pounds, or any penny thereof to the said I, according to his promise and assumption aforesaid (although hereunto the said A afterwards, to wit, the fourth day of November, Anno, &c. 11. at London in the Parish and Ward aforesaid, was thereunto requested) hath not paid, but the same to him to pay hath refused, and yet refuseth, to the damage of the said A of one hundred and twenty pounds, and thereof bringeth Sute, &c. the Defendant pleads, did assume, and did for the Plaintiff, and after long debate in arrest of Judgement, Judge- ment was given for the Plaintiff, and damages to one hundred and thirten pounds, and the said T in mercy. Justice Warburton was of opinion against the Plaintiff, because he pursued not the first consideration, that is, the obtaining of the Kings Letters Patents of Pardon, which he in certaintie ought to shew, but only saith that he moved the King, &c. for such Pardon, 2. he laboured, &c.

Consideration.

Assumption.

Breach of the
Assumption.

Request.

T. 14 Jac.
Judgement
was given, 10.
Eliz. Dyer
272. & 355.
Mercy.

An Attorney
brings his
Action upon
the case for
standing his
person, for
that the De-
fendant exhi-
bited false
Articles a-
gainst the
Plaintiff, to a
Master of
Chancery,
and avers
them to be
true, &c.
Speciall De-
claration.

Set forth that
he is an At-
torney of the
Common
Bench.

TRin 10. Jac. Rot. 3390. Waller. Salop ff. R I was attached by writ at privilege to answer I B one of the Attorneys, &c. of a Plea of Trespass upon the Case, &c. And whereupon the same J in his proper person com- plaineth, whereas he being a good, true, and honest leige man of the Lord the King now, and as a good, true, and honest leige man of the said now King, and the Lady Elizabeth, late Queen of England, from the time of his Na- tivity hitherto, carrying and behaving himselfe, and of good name, and fame, and honest, and quiet conversation and gesture amongst all his Neighbours, and other Subjects of the said Lord the King, to whom the said I had been known without any spot or note of sowing of strifes, or discords, or disturbance of the Kings peace, or oppressing of his Neighbours, unlawfull labouring of Juries, or suspicion of any such hurtfull crime, free and untouched by the whole time aforesaid, was reputed, remained, and continued: And whereas also the said I is now one of the Attorneys of the said Lord the King of the Common Bench, and by a great time now elapsed, that is to say, by the space of eight yeares was: And all businesse in the same Court of the King, here and else- where, for his Clients, well, honestly, diligently, and faithfully, as their At- torney by the whole time aforesaid, according to the binding of his oath in that behalfe, without any false-hood, perversity, or deceit whatsoever did, and dispatched, whereupon, and by reason of his said honest gesture, and conver- sation, the same I not only justly obtained, the favour, love, and good will of divers venerable persons, and other faithfull Subjects of the said Lord the King, but also as an Attorney of the same Court of the said Lord the King of the Common Bench, divers great gaines and profits of divers leige people of the said Lord the King, his Clients, in the prosecution of their causes in the same Court, towards his maintenance, and support of his family from day

day to day gained and obtained. Nevertheless the same I, not ignorant of the premises, out of his meer and wicked malice preconceived, intending not only to detract, make worse, and wholly destroy, not only the good name, fame, and opinion of the said I, and to bring him the same I into hatred and evil opinion of all his neighbors and other faithful Subjects of the said Lord the King, so that his said Clients, and others willing to retain him, might altogether desert him the said I from being their Attorneys in the said Court of the said Lord the King of the Common Bench, & have nothing further to do with him; but also him the said I very much to disturb, oppress, & impoverish, devised certain false, scandalous, and malicious articles and lies of the said I of late, to wit, the twelfth day of May, Anno Reg. 8. at the Town of S, and made them to be written in paper in these English words following: S ff. R C Gent. Plaintiff: R R Defendant, in a Plea of trespass and ejectment of farm.

Articles exhibited in Chancery to have a special Supplicament.

Mr. Bradley Attorney for the Plaintiff, the matter being at issue, and to be tried at the Assizes in Lent last by Jury, and Mr. Bradley did specially labour some of that Jury in the Plaintiffs behalf, as one W G on the principal Pannel in that matter, being sworn and examined upon the complaint of the Defendant in that behalf, did confesse it at the barre, affirming and perswading the said Jurors, that the matter was very plain on his Clients behalf: and that he had in a box there (meaning a box that he had in his hand) which would make the matter very plain; he did also labour one, R I, being of the same Jury, who is ready to justify the same upon his oath, May 18, 1610. the said B did labour R I, being of a Jury, to find a Ward for the King, the Child of one Mr. Jones of the County of S, that he would not find any tenure, and told Mr. L, that he would command this Juror to find no Wardship, the said B is a common labourer of Juries to give their verdict for such as he dealeth for, and so he hath solicited, as subscribed, R I, I W.

And the said R afterwards, to wit, the fifteenth day of May, Anno 8. aforesaid, at S aforesaid, deposed upon his oath before M G Knight, one of the Masters of the Court of Chancery of the said Lord the King, that the matter contained and specified in the said Articles was true: And thereby the said R did thereupon obtain and procure out of the Court of the said Lord the King, before the said King, a certain Writ of the said Lord the King, against the said I, directed to the Sheriff of S, by which said Writ suggesting, that the King might understand and be informed by the relation and testimony of many faithful and honest men of the said County, that the said I B was not of good name, fame, nor honest conversation, but of evil disposition, a Barreter and disturber of the peace of the said Lord the King, and that he was likely to commit murder and manslaughter, and that divers controversies and other damages and greivances amongst the Kings Subjects, by reason of the premises were daily like to arise.

The Defendant shows the matter contained in the Articles to be true.

Recital of the Writ of good behaviour, issuing out of the Kings Bench upon the Articles exhibited in Chancery.

The King commanded the then Sheriff of S, that he should not omit for any liberty in his Baylywick, but that he should attach the said I, so that he might have him before the said Lord the King at a certain day contained in the said Writ, wheresoever he should then be in England, to find sufficient security before the said Lord the King for his good behaviour towards the said Lord the King, and all his people, according to the form of the Statute in that case made and provided, under a certain penalty upon him by the said King then to be imposed. And when the said I should be attached by virtue of the said Writ, then by sufficient Panncaptors who would undertake for him, under a certain penalty upon them, and every of them, by the said Sheriff reasonably to be imposed, as well for keeping his day, as in the mean time for his good behaviour, until that time he should be dismissed.

And the said R by virtue of the said Writ lately, to wit, the twentieth day of

The Plaintiff is arrested upon the Writ. Averment that the matter contained in the Articles is false. The Damage.

of September, Anno 8. abovesaid, at S aforesaid procured the said I, by one R M Elquire, then Sheriff of the said County of S, to be taken and attached, whereas in truth the matters contained in the said Articles were false and are false and untrue. By reason whereof the said I is not only much hurt and prejudiced in his good name, fame, credit, and estimation aforesaid, wherein befoze he had much repute, and by reason thereof divers venerable persons and leige-men of the said Lord the King, Clients of the said I, and others willing to retain the said I to be their Attorney in the said Court of the said Lord the King of the Common Bench, do wholly withdrato themselves from the company of the said I, and altogether refuse to intermeddle with the said I, but also the said I was compelled for his discharge in this behalf, to undergo many great labours, and to disburse and expend divers great sums of money, to the damage of the said I of five hundred pounds. And thereupon bringeth suit, &c. The Defendant pleaded not guilty: And judgement was given for the Plaintiff.

M. 11. J. R.

In arrest of judgment it was held by Warburton and Nichols Justices, that if one prosecute a Writ of good behaviour out of the Kings Court upon Articles exhibited, there no Action lies.

Cafe for Slandring the person, and saying hee is a bankrupt. H. 8. Jac. rot. 1907. between Cand I thou art a runnagate bankrupt rogue. H 10 Jac. 3150.

T Rin. 14. Jac. Rot. 3400. Brownlow. R H late of, &c. was attached to answer N H of a Plea, that whereas the said N is a good, true, and faithful leige-man of the Lord the King now, and of good name, fame, conversation, and condition was, and so as well amongst his neighbors as other strangers, is held, taken, and reputed, and for many years now last past used, and yet useth the Art or mystery of a Percer, and in the same Art, without any deceit, fraud, bankrupting, or spot of any other hurtful crime hitherto hath behaved, kept, and governed himself, and by reason of his good and honest conversation, and his just payment of his debts, hath obtained, had, and enjoyed great credit and esteem amongst his Neighbors and Creditors, and other leige people of the said Lord the King.

T 19. Jac rot. 1828. He is a bankrupt knave. T 19. Jac rot. 503. He hath spent his estate and is gone beyond the Seas, and is a bankrupt.

Peberthelesse the said R intending unjustly to prejudice, and to hurt, impair, and detract from his good name, fame, credit, and esteem, the said R words false and scandalous of the said N at G B in the presence of many leige-people of the said Lord the King openly and publickly spoke, related, published, and pronounced, that is to say, Thou (meaning the said M) art a bankrupt rascal, a drunkard, and one of no credit, by reason of which said false and slanderous words speaking, publishing, and pronouncing, the same N is not only much damaged in his good name, fame, credit, and estimation, but also is much the worse in doing his honest and lawfull businesse, and in buying, selling and lawfully bargaining greatly hindered, to the damage, &c. of forty pounds. The Defendant pleads not guilty.

P 33. Eliz. rot. Between A & D, thou art a false knave, a cosewer and a bankrupt. Sec the Judgment. T 25. Eliz. rot. 1106. Where is that bankrupt knave, where is that pillory knave; Judgment for the Plaintiff.

T 13. Jac. rot. 1631. Brownlow. We it remembred, &c. II. To the Justices of the Common Bench, North. II. T M by A A his Attorney complaineth of W W Gent. one of the Attorneys, &c. of a Plea, wherefoze the said T M the first day of June, Anno Reg. 11. at O had put one G the natural son of the said T unto the said W W, then and yet being one of the Attorneys of the Court of the said Lord the King of Common Bench, to serve the said W W as Clerk to the said W W, to be taught and instructed by the said W from the said first day of June, Anno 11. abovesaid, and given and delivered to the said W to the proper use of the said W ten pounds of lawfull money of England, and upon the last day of November from thence next following other ten pounds, for his labour and care in undertaking to teach and instruct the said G in the science and learning aforesaid.

Cafe against an Attorney by his Clerks father for 10 li. which the Def. promised the Plaintiff, in consideration he would take home his son, &c.

And

And whereas also the said W afterwards, to wit, the same first day of June, Anno 11. above said, at G aforesaid had received the said G into his said service. And the same G so being in the said service of the said W, the said W afterwards, to wit, the twentieth day of January, Anno Reg. &c. 12 at G aforesaid, the said W became deaf and infirm of body, whereby the said W could not teach and instruct the said G in the science and learning of an Attornee of the said Bench, and so hitherto hath continued deaf and infirm, the same W afterwards, to wit, the same twentieth day of January, Anno 11. above said, at G aforesaid, in consideration that the said T. at the speciall instance and request of the said W. and with the consent of the said W would receive the said G. then Servant of the said W. from the service of the said W and would provide for the same G a certain other service at the costs of the said T. upon himselfe did assume, and to the said T. then and there faithfully promise, that he the said W. ten pounds of lawfull money of England, to the said T. that is to say, five pounds thereof at the Feast of Philip and Jacob the Apostles, then next following, and other five pounds remainder thereof at the Feast of Saint Michael the Arch. Angell then next following, well and faithfully would content and pay. And although the said T. upon hope of the faithful promise and assumption of the same W. made as aforesaid, afterwards, to wit, the same twentieth day of January, Anno 12. above said, with the assent and consent of the said W. received the said G. then Servant of the said W. from the service of the said W at his owne proper Costs. And afterwards, to wit, the twelfth day of February, Anno Reg. 13. at G aforesaid, did provide another service for the said G. with one W T Gent. another Attornee of the Court of Common Bench, of the said Lord the King, and him the said G. with the said W T placed. Nevertheless the said W W his promise and assumption aforesaid little regarding, but intending to deceive and defraud the said T of the said ten pounds, the said ten pounds unto the said T according to his promise and assumption aforesaid hath not paid, but the same to him to pay, hitherto refused, and still refuseth, to the Damage of the said T. of ten pounds, and thereof prayeth remedy, &c. Pledges, &c.

Infirmity.

Consideration.

Assumption.

Breach of promise.

T 21. Eliz. rot. 1164. Middlesex ff. R.B. &c. was attached to answer R. M. one of the Justices of the Court, &c. upon an attachment of Priviledge, and whereupon the said R M by R S his Attornee, complaineth, that whereas the said R. M. hath, from the time of his birth hitherto bene of good name, fame, Credit and reputation, and by the whole time aforesaid, well, faithfully and uprightly in all causes whatsoever, concerning, as well the said Lady the Queene and her Progenitoze, as the Common Wealth of England, and the same R M for the trust and good opinion which the said Lady the Queene now, and her Nobility and Councill, had of the said R. M. hee was not only constituted and made one of the Justices of the said Queene of the Bench aforesaid, but also one of the Justices of the said Lady the Queene to take the Assizes in the Counties of Y. N. C. W. and County Palatine of Lancaster, but also assigned in due manner, by severall Letters Patents of the said Lady the Queene, to be one of the Justices of the Peace of the said Lady the Queene, to hear and determine of diverse felonies, trespasses, and other misdemeanours committed in the County of Lincolne, in which said Offices, Places, and Degrees, the said R M for diverse yeares now past, served the said Lady the Queene, and behaved himselfe as a faithful Justice, and according to his Power endeavoured to punish and amend all riots, routs, trespasses and Contempts whatsoever, committed against the Peace of the said Lady the Queene in the said County of Lincolne or elsewhere, and in no wise assisted such Trespassers and Offenders, either by Counsell, Ayde, Abetment or Sufferance: And whereas E. B. W. H. and other Malefactozs,

Case for scandalous words brought by one of the Justices of the Common Bench, and declares by his Attorney.

to

to the said R M unknown, by the unjust and malicious instigation, counsell and abetment of the said R B, the fourth day of May Anno Reg. 21. in the night of the same day, with force and Armes, &c. riotously, routously and unlawfully did break diverse closes of W B, Lord Treasurer of England, at C in the County of L, and the hedges and inclosures in the ground and free tenement of the said Lord B erected, and standing in or about those closes, did then and there unlawfully and riotously prostrate, cast down and extirpate, and diverse other riots, routs, and other misdemeanors, then and there riotously and routously committed, and did against the peace of the Lady the Queen now, and also the said R B afterwards, to wit, the thirteenth day of May, Anno Reg. 21 for the reason aforesaid, was called before the said W Lord B, and charged of and for the aforesaid counselling abetting and procuring by the said R B to the said malefactors supposed to be abetted.

The grievance

The same R B, not ignorant of the premises, but intending himself in this behalf falsely and craftily to discharge and excuse, and maliciously and craftily intending him the said R M, then and yet being a Justice as aforesaid, to be held and named a counsellor, abettor, and procurator of the trespasses and riots aforesaid, and to bring him into hatred and displeasure of the said Lady the Queen now of the said W Lord B. and other of the Nobility and faithful Subjects of the said Queen now, and to cause him to be held as an unworthy, evil, and wicked Justice: the said thirteenth day of M, at the City of Westminster in the County aforesaid, falsely and maliciously said, related, and uttered to the said W Lord B of the same R M these false and scandalous words following, that is to say, I (meaning himself) was not of council with the same Act (the said unlawful and riotous breaking of the said Close, and the riotous prostration, casting down, and extirpation of the hedges and inclosures aforesaid meaning) but the parties suspected for the same, did it by the counsel of Mr. Justice M (the said R M now the Plaintiff meaning:) And the said Justice M did give the tenants there (meaning the said malefactors) counsel to do it, whereas in truth the said R never gave counsel to any person or persons to do and commit the premises, or any of them, but the said R B was in truth the only counsellor and procurer of the said trespasses and riots: by reason of speaking which said false, scandalous & defamatory words, the said R M is not only much damaged in his good name and fame, but also brought into great displeasure & indignity of the said Lady the Queen, as of the said W Lord B and others of the Nobility, Counsel, and faithful Subjects of the said Queen, to the damage of the said R M of two hundred pounds, and thereupon bringeth suit, &c.

Averment.

The damage.

Issue upon the traverse of the words in the Declaration, but no judgment is entered upon the Roll.

Action upon the Case brought by the Master for enticing his Apprentice to play at Cards and losing his money.

MIch. 43. and 44. Eliz. rot. 3272. Brownlow. London. H. H. E. was attached to answer T. W. of a Plea, that whereas the said T. the seven and twentieth day of Sep. An. &c. and continually from thence hitherto was, and yet is, a Citizen and Free-man of the City of London, that is to say, a Free-man of the Art of Leather-seller London, and inhabiting in London aforesaid, that is to say, in the Parish, &c. And from the same twenty fourth day of S, Anno &c. for many years then past had used, and from thence hitherto doth use the trade of Merchandizing in the City aforesaid: And also whereas the same T. the same twenty fourth day of S, Anno, &c. at London in the Parish and Ward aforesaid had received and entertained one T. R. into his service as his Apprentice, to serve the said T. W. as his Apprentice (from such a day) unto the end of nine years then next following: And the same R. W. afterwards, to wit (such a day and year) at London aforesaid, in the Parish and Ward aforesaid, and continually from that time (until

till such a day and year) &c. had appointed and authorized the said R, and had given him credit to sell the said Merchandizes of the said T W to the value of a thousand pounds of lawful money of England, and to receive the money for such merchandizes so sold.

And whereas also the said T R from the aforesaid time wherein the said T W, as is aforesaid, had received him the said T R into his service, had in all things, well and faithfully served the said T W, that concerned his said service, until the twentieth day of M, Anno &c. at London in the Parish and Ward aforesaid.

Nevertheless the said H well knowing the premises, maliciously contriving, not only altogether to deprive him the said T W of the good and faithful service of T R his Apprentice, but also to bereave him the said T W of his money, being in the hands of the same T R, afterwards, to wit, the same day and year, &c. at London, in the Parish and Ward aforesaid, did intice and procure the said T R then being an Apprentice of the said T W, as is aforesaid, to absent himself from the service of the said T W, and to imbezile and carry with him divers sums of money of the said T W his Master, in the whole amounting to one hundred pounds, of lawful money of England, and to play with the said H at unlawful games, that is to say, at cards, tables, and dice, with the money, goods and chattels of the said T W, by reason of which said inticement and procurement, the said T R, being an Apprentice of the said T W, as is premised, afterwards, to wit, the same day and year, &c. and by twenty other several days between the said twentieth day of M, Anno, &c. at London in the Parish and Ward, &c. absented himself from the service of the said T W his Master, and in the said several days at London aforesaid, in the Parish and Ward aforesaid, imbezelled and carried with him the said sums of money of the said T W, in the whole amounting unto the said one hundred pounds. And with those sums of money of the said T W, by the procurement of the aforesaid H, he played with the said H at the said unlawful games at London, in the Parish and Ward aforesaid. And the said H the said sums of money of the said T W at the said unlawful games, between the aforesaid twentieth day of May, Anno, &c. at London, in the Parish and Ward aforesaid of the said T R, falsely and fraudulently sought and obtained: By reason whereof the said T W not only lost the good and faithful service of the said T R from the said twentieth day of M, Anno, &c. until such a day, Anno, &c. but also is bereaved and defrauded of his said sums of money, to the damage of, &c. A Demurrer in law to the Declaration.

The grievance

MW lately of, &c. was attached to answer I C Oxon. and E his Wife, of a Plea, that whereas the said Earl and E have and hold the Mannor of E, with the appurtenances, for the life of the same E, the reversion thereof after the death of the said E belonging to the Lord the King and his heirs. The said M Tenant of the Mannor aforesaid, with the appurtenances, at the will of the said Earl, and E, sixty oaks upon ten acres of land parcel of the said Mannor with the appurtenances, late growing, cut down and carried away, by reason whereof the Lord the King by his Writ of waste places, wherein the said oaks grew, and his damage by occasion of the cutting down and carrying away of the said oaks against the said Earl and E in triple, according to the form of the Statute thereof provided, may recover to the damage of the said E and E of forty pounds, &c. See Littleton: Coke 5. fo. 13. Countesse.

Trespass upon the case against tenant at will, for committing of waste, whereby the Lord of the Mannor may recover the goods wasted, and treble damages in an Action of waste brought against the Plaintiff

M22. H 7. rog. 420. Norff. ff. T E and I S were attached to answer R C Executor of the Testament of W I, &c. of a Plea, that whereas the said Testator had occupied and held to him and his Assignes the Mannor of H with the appurtenances in the County of M for the term of certain years of the Demesne of W F, &c. and the said T had occupied and held three Mills

Trespass upon the Case against Lessee for years upon demise of an Executor, who by negligence burned the Mills.

T 19 J rot. 577. Derb. ff H
against F. Case
against a Mi-
ner for his
negligence in
digging a pit
for lead, &c. in
such a place,
that it was
not easily discoverable,

in H aforesaid, parcel of the said Mannor of the Demesne of the said R and
S now dead, Co-executor of the said R of the Testament aforesaid, made to
him for the term of certain years, the said T and W M those Hills to the value
of five marks negligently burned, to the damage of the said Exec. forty
pounds, in delay of the execution of the said Testament: And whereupon the
said T complaineth, that whereas, &c.

The Defendants plead, that they did not burn the said Hills, pro ut.

Not guilty.

Custom of
England for
Inn-keepers.
An Action up-
on the case in
trover for a
horse, the Def.
justifies the
conversion by
the custom of
England, and
that if any
horse be sent
into any com-
mon Inn to
feed, and the
Inn-keeper be
not paid for
his meat, he
may appraise
the horse by
appraisers, to
the value of
the horse, &c.

M 6. J rot. 1814. Brownlow, Surrey ff. P W against C G of London Inn-
holder, and declares upon an Action of trover for a horse, &c. he lapes
the possession and conversion to be 31. Aug. 5. Ja. at Ewel. And the Defend.
saith no Action, &c. because he saith, that through the whole Kingdom of Eng-
land is had, and by the space whereof the memory of man is not to the contra-
ry was had this custom, that is to say, that if any horse or mare of any person
or persons should be put in any common Inn within the same Kingdom to
feed, and no person after the putting of such horse or mare within the said Inn
shall come, and pay, or otherwise shall agree and compound with the Inn-
keeper of the said Inn for the time being, for the meat of the said horse or
mare, before such meat for such horse or mare within the said Inn eaten & con-
sumed, shall exceed the value of such horse or mare, then the Inn-keeper of the
same for the time being, hath used, and from the whole time aforesaid hath
been accustomed to cause such horse or mare to be appraised at a reasonable
price by honest persons of his neighborhood: And if such appraisers by their
appraisement of the said horse or mare shall find and declare that the
meat of the said horse or mare eaten and consumed in the said Inn, to
be of more value than the aforesaid horse or mare, so by them appraised, shall
be reasonably worth, that then and from thenceforth such Inn-keeper for the
time being, in whose common Inn the said horse or mare was put to feed as
in form aforesaid, may at his pleasure after that time sell such horse or mare,
or otherwise convert to his own use and sell, or otherwise may convert to his
own use for and towards the satisfaction for the meat of such horse or mare eaten
and consumed within the said Inn.

And the said C saith, that he the same time in which the said horse in the
Declaration aforesaid specified is supposed to come to his hands, and by four
years then next elapsed, and ever afterwards, and yet is a common Inn-keeper
and holdeth a certain Inn, called the Three Horse-Shoos, within the Parish
of St. B without the bar of Aldersgate London, in the County of M, and that
one R B the twenty fourth day of Jan. An. Reg. 4. at the Parish of St. B, came
to the common Inn of the said B, bringing with him the said horse into the said
Inn, which said horse the said R B the same twenty four day of Jan. Anno 4. a-
bove said, until the thirty one day of Aug. An. 6. above said, in the Inn of the
said C remained at meat, and that the said meat of the said C eaten and consu-
med within the same Inn by the same horse, between the said twenty four day
of Jan. and the thirty one day of Aug. was worth 7 li. of lawful money of Eng.
And that no person within that time paid the said C for the said meat, neither
compounded nor agreed with the said C for the same, whereupon certain TN,
M R, and others, lawful and honest persons the neighbors of the said C, and
inhabiting and remaining within the said Parish of St. B, at the request of the
said C, afterwards, to wit, the thirty one day of Aug. Anno 5. above said, at the
said Parish of St. B, reasonably appraised the said horse at 5 li. and no more;
whereupon the said C afterwards, to wit, the said thirty one day of August,
Anno 5 above said, at the aforesaid Parish of St. B retained that
horse in his hands towards the satisfaction of the said C for his meat a-
foresaid then and there did convert and dispose as it was lawful for him to

The Def. traverseth, the
forreign place
and this plea
was pleaded
upon oath.

**Action upon
the Case
brought for
Solicitors fees
in Chancery,
Consideration.**

Assumption.

Execution of
the considera-
tion.

Count for Solicitors fees in Court Christian of the Arches.

Assumption:

Executing the consideration.

said R in the said Court Christian, before the said spiritual Judges in the Arches of London in that cause, and procured him the said R from the said sentence of excommunication against him published in the said Court, to be absolved and acquitted, & forty three shillings and eight pence in and about the defence of that cause, and the absolving and acquitting of the said R from that sentence of excommunication for the said R disbursed, which said three and forty shillings and eight pence, in form aforesaid disbursed, together with six shillings eight pence for his salary and pains in this behalf, in the same Terms of Easter and the holy Trinity, in the whole do amount unto fifty shillings and four pence.

Another Count
for Solicitors
fees in the pre-
rogative Court
of Canterbury.

Assumption.

Execution of
the Considera-
tion.

Assumption be-
ing indebted.

Satisfaction in
part.

Breach of sever-
al promises.

Not assume.

An Action up-
on the Case
brought for re-
scuing a di-
stress taken by

And also whereas the same R the first day of October, Anno 39. above said, at B aforesaid, in consideration that the said T G at the special instance and request of the said R, would be the Solicitor of the said R in a Court Christian, before the Judge spiritual of the Prerogative Court of Canterbury, to prosecute for the said R a certain cause of revocation of Administration of A B committed to the said T in the said Court Christian, against the said R L in the said Court Christian to be moved; Assumed upon himself, and to the said T G then & there faithfully promised, that he the said R would pay unto the said R G for his salary and pains in that behalf every Term, wherein the same T was Solicitor for the said R in that cause, three shillings four pence, and besides that salary, reasonable charges and expences disbursed by the same T in and about the prosecution of that suit.

And although the said T G in the term of St. Michael then next following, was the Solicitor of the said R in the said Court Christian, before the said spiritual Judges in the Arches of London in that cause, and prosecuted the said cause in the same terme in the said Court against the said L, and nineteen shillings and ten pence disbursed for the said R in the same Court, in and about the prosecution of the said suit, which said nineteen shillings ten pence disbursed in form aforesaid, together with three shillings four pence for his salary in the same term, in the whole do amount unto twenty three shillings two pence.

And whereas also the said R the first day of July, Anno 43. at B, in consideration that the said T G at the special instance and request of the said R, had sold and delivered to one I B, the brother of the said R, forty stone of Wool, upon himself assumed, and to the said T then and there faithfully promised to pay to the said T twenty four pounds of lawful money of England, when he should be thereof requested. And although the said R, in hope of the faithful promise and assumption of the said R aforesaid, afterwards, to wit, the twentieth day of July, Anno 43. above said, sold and delivered to the said J forty four stone of Wool, according to the aforesaid request of the said R. And although also the said R twenty pounds of the aforesaid twenty four pounds to the said T afterwards satisfied, which said several sums of money unpaid, in the whole do amount unto nine pounds sixteen shillings.

Nevertheless the said R B his promise and assumption aforesaid little caring, but minding and intending him the said T of the aforesaid nine pounds and sixteen shillings, according to his promise and assumption aforesaid (although the said R afterwards, to wit, the first day of Aug. Anno forty four above said, at B aforesaid, by the said T was thereunto required) hath not paid, but the same to him hitherto to pay hath refused, and still refuseth, to the damage of the said T of twenty pounds, and thereof bringeth suit, &c.

Pledges to prosecute, I D, R R.

The Defendant pleads, Did not assume.

T 14. Jac. rot. 2040. Brownlow. Suff. ff. C M complaineth of A K of a Plea, that whereas, and so the Plaintiff sets forth, that one F G

was seised of the Mannor of W in the County of S, whereof one Messuage and one Orchard aforesaid are, and from the time whereof, &c. were parcel in fee, and that the Tenements aforesaid, were copyhold of the said Mannor, and conveyeth a copyhold estate in fee to himselfe, and that he entered, and was seised at the will of the Lord in fee, and the said C being so thereof seised, demised to the Defendant, the said Tenements for a year, paying three pounds foure shillings at such feasts, and that the Lessee entred, and was thereof possessed, and being thereof so possessed, two and thirty shillings of the said Rent for one halfe yeare ended at the aforesaid feast of the Annunciation of the blessed Mary the Virgin, then next following, were in arrear to the said C, and yet remaine unpaid, for which said Rent of two & thirty shillings so in arrear and unpaid, the said C afterwards, to wit, the twentieth day of September, Anno Reg. 13. entred into the Messuage aforesaid with the Appurtenances, being in the possession of the said T as is aforesaid: And in the said Messuage for the said Rent to him as aforesaid, being in arrear and unpaid, took a certaine Chest with divers Goods and Chattels in the said Chest contained, to the value of forty shillings in the name of a distress, and them for the said thirty two shillings of that rent so to the said C, being unpaid, according to the Law and Custome of Eng. would have impounded, and the said Chest with the said Goods and Chattels therein included, being in the hands of the said C, for the cause aforesaid, the said A together with I H late of, &c. and A his wife, minding and intending him the said C, of the aforesaid thirty two shillings of the said Rent to being in arrear and unpaid, as is aforesaid, to the said C, craftily and subtilly, to deceive and defraud, afterwards, to wit, the said twentieth day of Septem. Anno 13. abovesaid, with force and armes upon him the said C, at W aforesaid, did make an assault, and him did beat, wound, and evil intreat, so that of his life it was despaired, and the said Chest with the Goods and Chattels therein, as is premised, contained, out of the custody of the said C, took, rescued, and carryed away, so that the said C was wholly hindered and excluded, to have any distress for the Rent being, as aforesaid, in arrear and unpaid, to the damage of the said C of forty pounds, and thereof byingoth Suit, &c. And the Defendant as to the coming with force and armes, and also the taking, rescuing, and carrying away of the said Chest, with the Goods and Chattels therein contained, above supposed to be done, not guilty. And as to the battery of his own assault.

Issue thereon.

Rent behind.

Copy-holder distraines for rent.

The greivance and rescue.

Damage;

Trespass upon the case by the Sheriff of Norff. against the Bayliff of an Hundred, for levying of divers sums of money, upon divers persons by Warrant from the said Sheriff, upon proccesse out of the Exchequer, and not payment thereof to the Sheriff, whereupon the Sheriff was compelled to pay the same in his account into the Exchequer.

Mich. 10 Jac. rot. 1710. Brownlow. Norff. N.R.L. &c. Bayliff of F in the County aforesaid, was attached to answer H L Knight, late Sheriff of the County aforesaid, of a Plea, that whereas the sayd H the twenty eight day of Nov. Anno Reg. &c. 6. was duely elected into the Office of the Sheriff of N and in the office of Sheriff of the same County from the sayd eight and twentieth day of N untill, and unto the twentieth day of Nov. An. Reg. &c. 7. continued: And the sayd R by the whole time aforesaid, was Bailiff of the sayd Hundred; and also during the same time in which the same H continued Sheriff of the County aforesaid, to wit, in the Terme of Saint Hil. An Reg. 6. there issued out of the Court of Exchequer of the Lord the King at Westminster, a certaine Writ of the said Lord the King, directed to the then Sheriff of the County of Norff. and returnable in the said Exchequer, in the morrow after the Close of Easter then next following, by which Writ it was commanded to the said Sheriff, that he levy, to the use of the said Lord the King, of severall persons, in certaine scedules annexed to that Writ, the severall sums of money charged upon the said severall persons, and payable to the said Lord the King, in the said Exchequer of the said Lord, on the aforesaid morrow of the Close of Easter then next following, that is to say, amongst others

The greivance.

The Damage.

Case upon breach of promise, for not payment of monies for instructing one in musick.

Assumption.

Execution of the consideration.

thers of one T K Knight five and forty shillings, and of one M S thirty shillings, and of one T W Esquire fifteen shillings, and of one T W Gent. ten shillings,, and of one R S ten shillings, and also whereas thereupon during the whole time in which he, as is aforesaid, continued in the office of Sheriff of the said County, by virtue of that writ made and directed, his certain warrant under the Seal of his Office of Sheriff aforesaid, directed to the said R L then Bayliff of the said Hundred of F, commanding on the behalfe of the said Lord the King, that the said R L should levy to the use of the same Lord the King, amongst others of the said T K, and others then inhabiting and remaining within the said Hundred, the said severall sums of money aforesaid, upon, then in the severall schedules aforesaid, severally charged according to the command of that writ, & the said R L by virtue of that warrant levied the said severall sums of money of the said T K and others at W aforesaid, within the Hundred aforesaid, to the use of the said Lord the King, in the whole amounting to six pounds and ten shillings: notwithstanding the said R L maliciously intending him the said H, in this behalfe greatly to prejudice, and unjustly to charge him with the payment of the said severall sums of money by the said R L of the said T K and others in forme aforesaid, severally levied to the use of the said Lord the King, the said severall sums of money by him in forme aforesaid, by virtue of the warrant aforesaid levied, unto the said H for the use of the said Lord the King, or to the said Lord the King, hath not paid but the same to him to pay hath refused, and yet refuseth, by reason whereof the said H is charged of, and with the said severall sums of money by him the said R L, to the use of the said Lord the King in forme aforesaid, levied towards the said Lord the King in discharge of his account of the Office of Sheriff, in the Exchequer of the said Lord the King, which he was compelled to pay to the said King, to the damage of the said H of twenty pounds. And thereof he bringeth Suit, &c.

T 14. Jac. Rot. 761. Brownlow. Suff. ss. IS against BM Gent. of a Plea that whereas the said I, the eight and twentieth day of November, Anno Reg. 10. at W in consideration that the said I at the speciall instance and request of the said IS, would receive and keep in his house one IC, the Son of the wife of the said JS, so long as it should please the said B, and would teach, or cause to be taught, the said JC by the whole time the said IS should remaine with the said B, to play in the art of Musick, in and upon divers muscical Instruments, and would finde to the said IC by the whole time aforesaid, all necessaries which the said IC should stand in need of, at the proper costs of the said R, upon himselfe assumed, and to the said B then and there faithfully promised, that he the said IS would well and faithfully pay and content the said B, for the keeping and teaching of the said IC, and for other necessities so by the time aforesaid, for the said IC by the said B laid out and bestowed, when he should be afterwards thereunto required, and although the said B giving credit to the promise and assumption of the said IS afterwards, to wit, the same eight and twentieth day of November, Anno 10. abovesaid, at W in the County aforesaid, took the said IC into his house and the custody of him at W aforesaid, and kept him the said IC from the said eight and twentieth day of November, Anno 10. abovesaid, untill the Feast day of Saint Peter, which was in the yeare of our Lord the King now the twelfth, and by the said time did cause him the said IC to be taught in the art of Musick upon divers muscical Instruments, that is to say, in and upon a certain Instrument called the Lute, and upon another Instrument called the Virginals, and likewise in the same time did bestow, and lay out one hundred shillings for the necessary apparell of the said IC, that is to say, for two Doublets, two Jerkins, &c. and thereof afterwards, to wit, the sixteenth day of October, Anno Reg. 13. abovesaid, at W aforesaid, gave notice to the said

I S, and then and there requested the said I S to pay and content the said B of the said one hundred shillings, and although also the said keeping and teaching of the said I S, by the time aforesaid, was reasonably worth twenty pounds.

Nevertheless the said I S his promise and assumption aforesaid, little caring, but minding and intending him the said B of the said severall sums of money in the whole amounting to five and twenty pounds, craftily to deceive and defraud, the said five and twenty pounds to the said B according to his promise and assumption aforesaid, although the said sixteenth day of October, Anno 13. aforesaid at B aforesaid was thereunto requested, hath not paid but the same to him to pay hath hitherto refused, and yet refuseth to the damage of the said B of forty pounds. And thereof he bringeth Suit, &c.

Breach of promise,

Speciell request.

T 19. Jac. Rot. 804. Brownlow. Somerset ss. I L against B M, that where as the said B was possessed of one Pagg, as of his owne Pagg, and being so thereof possessed, the said I afterwards, to wit, the twenty sixth day of November, Anno 17. at W aforesaid, in consideration that the said B at the speciall instance and request of the said I, would let to hire to the same I the said Pagg to ride and journey about the businesse of the said I, upon himselfe did assume, that he the said I for every day that he the said I should have, ride, or keep in his custody the said Pagg, twelve pence of lawfull money of England to the said B, when he should be thereunto required, well and faithfully would content and pay, and although the said B afterwards, to wit, the same six and twentieth day of November, Anno 17. at W aforesaid, did let to hire the said Pagg to the said I, and the said I did ride the said Pagg from the said six and twentieth of November, Anno 17. abovesaid, untill the sixth day of January then next following, in the whole forty dayes, by which an Action accrued to the Plaintiff to demand, and have of the Defendant twelve pence for every day of the said forty dayes, according to the said rate of twelve pence the day, in the whole amounting unto forty shillings: Nevertheless the said I, &c. the said forty shillings hath not paid, &c. Damages to one hundred shillings.

Cafe in the nature of an action of debt for salary due for hiring a horse at twelve pence the day.

M Ich. 39. & 40. Eliz. Rot. 2531. Brownlow. Midd. ss. CP late of L Esquire, late Sheriff of Norff. was attached to answer G O, for that whereas one E C was indebted to him in two hundred and five pounds upon Statute Staple, acknowledged befoze Verney cheife Justice, &c. And the Clerk of the Statutes certifieth that the debt is in arrear, and thereupon an extent to the Sheriff of Norff. which writ the Plaintiff delivered to the Defendant to be served with promise to pay him his fees, for the executing of it, and sheweth that the Defendant was Sheriff after the retorne of the said writ, and although the said Sheriff after the receiving of the said writ, and befoze the retorne of the same, to wit, the sixteenth day of September, Anno 30. at B abovesaid, within the Bayliwick of the said Sheriff, was in company of the said E C, and the said E then, and often afterwards, befoze the retorne of the said writ as Sheriff of the said County, by virtue of that writ at B aforesaid, being at large, might safely and lawfully have taken and arrested him, and so chargeth the Sheriff for not arresting the party, nor returning his writ.

Cafe against the Sheriff for not arresting I S, being in his presence and having an execution against him.

T Rin. 10. Iac. rot. 2247. Waller. Heref. ss. HB late of G in the County aforesaid Knight, late Sheriff of the County aforesaid, was attached to answer I P Cent. of a Plea that whereas the said I late in the Court of the Sheriff for an escape upon an Outlawry, and for his false retorne thereupon.

Action upon the case brought against the

King

King now, &c. (recite the whole original) to the damage of the said I of forty pounds, and whereupon the said I by R B, his Attorney complaineth, that whereas the same I lately in the Court of the Lord the King now, of the Common Bench at Westm. had impleaded J M late, &c. otherwise called, &c. of a Plea, that he render unto him fifty pounds which he owed him and unjustly detained as he said.

H. 11. Jac. rot. 617. between C who, &c. and B as upon a escape upon a general Outlawry. See the new Book of Entries, fo. 8. title, Action; reciting the general *Capias ut lagat.* & fo. 11. in the title Return. Actions upon the case brought by the Plaintiff, *qui iam,* &c.

M. 17. & 28. And the said I for that he came not into the same Court of the said Lord the King, before the Justices of the said Lord the King, to answer the said I thereof, he was put in Exigent to be Outlawed in the said County of H. and upon that occasion afterwards was Outlawed the eighteenth day of May then last past, at the suit of the said I in the aforesaid Plea: And whereas also the said I in the holy Trinity then last past, to wit, the twelfth day of June, the same term for expediting of the said suit the sooner, did prosecute out of the said Court of Common Bench at West. aforesaid, a certaine Writ of Capias of the said Lord the King, to take the said Outlawed as is aforesaid, at the suit of the said I, directed to the then Sheriff of the County aforesaid, by which Writ the said Lord the King, commanded the Sheriff that he omit not for any liberty of his County, but that he take the said I Outlawed in the County aforesaid, the eighteenth day of May, Anno Reg. &c. 9. abovesaid, at the Suit of the said W I, in a Plea of debt, if he shall be found in your Balywick, and him should safely keep, so that he might have his body before the then Justices of the said King of the Common Bench at Westm. aforesaid, in the moorow of Saint Martin, to doe and receive what the same Court shall consider of in this behalfe, and that he should then have there that Writ, which said Writ the same I afterwards, and before the said moorow of Saint Martin, to wit, the last day of July Anno, &c. 9. abovesaid, at C aforesaid, delivered to the said H B, then being Sheriff of the County aforesaid, to be executed in forme of Law, by virtue of which said Writ the said H B then being Sheriff of the County aforesaid, afterwards, and before the said moorow of Saint Martin, to wit, the first day of September, Anno, &c. 9. abovesaid, at C aforesaid, took and arrested him the said I, and then and there had and detained him the said I, in the Prison of the said Lord the King, in the County of H, under his custody, for the cause aforesaid. Wherefore the said H being Sheriff as is premised, his said Office in the true and just execution of the Kings Writs, little caring, but meaning, and fraudulently intending, not only to defraud the said Lord the King of that which to him belongeth, by occasion of the said Outlawry, but also to delude the said Lord the King in his said Court, and also to retard him the said I, from the obtaining and recovery of his said debt, him the said I so as aforesaid Outlawed, and being in his custody as is premised, as a contemner of the said Lord the King, his Crown & dignity, without precept or command of the said Lord the King, and the said I not satisfied of his said debt, and without the licence, and against the will of the said I at C aforesaid, permitted him to go at large whither he would, and the said Writ of Capias ut lagat. at the said moorow of Saint Martin, falsely and fraudulently returned, that the said Sheriff by virtue of the same Writ to him directed, took the body of the said I M, whose body then was in the Prison of the said Lord the King under his custody, & so languishing, that for fear of death, at the day and place in the Writ contained, he could not have before the then Justices of the said Lord the King, as by the said Writ it was commanded him, whereas in truth the said I was admitted by the said Sheriff to go at large out of the said Prison of the said Lord the King, in contempt of the said Lord the King, and delusion of the Court of the said Lord the King, and delay and manifest, retarding of the suit of the said I,

The grievance.

False returne.

H. 8 Rot 331. for returning a non est up on the Writ.

A Capi Corpus, and languishment in Prison.

to the damage of the suit of the said I of forty pounds : And thereof he bringeth suit, &c. not guilty. See the like Action T. 26. Eliz. Rot. 506, & pa. 27. Eliz. Rot. 804. against the Sheriffs for false retournes.

Averment that I S was at large, before the Sheriffs returne.

T 14. Jac. Rot. 772. M. W against W W of a Plea that whereas the said M the tenth day of Aug. Anno Reg. 12. was seised of and in one Messuage called the George with the Appurtenances in L aforesaid, in his demesne as of fee : And being so thereof seised, a certaine conference was moved and had, between the same N and the aforesaid W, of, for, and concerning a Demise to be made to the said W by the same N of the same Messuage, upon which said conference the said N, the same day and yeare at L aforesaid, in consideration that the said W at the speciall instance and request of the said N, would accept of a lease from the said N of the said Messuage for the terme of fourteen yeares, under the yearly rent of twelve pounds of lawfull mony of England to be paid yearly, during the said terme to the said N, by the said W, at the feasts of the Annunciation of the blessed Virgin Mary, and Saint Michael the Archangell by equall portions, upon himselfe assumed, and to the said N then and there faithfully promised, that he the said N, the Messuage aforesaid with the Appurtenances, then being in decay and out of repaire, would well and sufficiently repaire within eight moneths then next following, at his own proper costs and charges : And although the said W afterwards, to wit, the twentieth day of August, Anno 12. abovesaid, at L aforesaid, demised the Messuage aforesaid, with the Appurtenances to the said W for the terme of fourteen yeares, under the yearly rent of twelve pounds of lawfull mony of England, to be paid by the said W yearly, during the terme aforesaid to the said N, at the aforesaid feasts by equall portions, who accepted thereof, and had, and occupied the Messuage aforesaid with the Appurtenances, one yeare and an halfe then next following, by virtue of the aforesaid demise ; And although the said W eighteen pounds for rent for the time aforesaid, unto the said N, at the severall feasts aforesaid paid and contented.

Action upon the case for breach of promise, in not repairing of a House. Conference before. Consideration that the Plaintiff would take a lease of the said messuage, and pay such a rent. Assumption to repaire the house at such a time at his cost. Consideration executed.

Occupation of the messuage. Payment of the rent.

Nevertheless the said N his promise and assumption aforesaid, little regarding, but contriving, and fraudulently intending him the said W, in this behalfe, craftily and subtilly, to deceive and defraud (the said Messuage so being in decay, that is to say, in the roof of the said Messuage for want of tiling, whereby the Timber by the tempests of raine descending upon it, became putrid & corrupt, &c. & also in the windows of the said Messuage for want of glass with the Appurtenances) within eight moneths then next following, according to his promise and assumption aforesaid, hath not repaired, but the same hitherto to repair hath refused, and yet refuseth to the damage of the said W of one hundred pounds, and thereupon he bringeth suit, &c. The Defendant pleads not guilty.

Breach of promise in not repaying.

Damage.

Case against an Hackney man for warranting his Horse to be well and sound and able to travel, where as he was infirm, &c. infirmity. Warranty. Inquiry of the Warranty, because it is an externall matter.

P 12. Jac. Rot 2259. Middlesex. ff. I S late of London Yeoman, against R R Gent. of a Plea, that whereas the same R of late, to wit, the tenth Anno Reg. 11. at I had bargained with the said I for sixteen shillings of lawfull mony of England, by the said R to the said I in hand paid, to let to hire a certaine Mare of the said I, unto the said R, for eight dayes then next following, to ride from I aforesaid unto R in the County of N and back againe from R unto I aforesaid, which said Mare then was lame and infirme, the said I knowing the said Mare to be lame and infirme as aforesaid, then and there warranted the said Mare to the said R to ride from I aforesaid, unto R aforesaid, and back againe from R aforesaid, unto I aforesaid, within the said space of 8 dayes to be able & sufficient, whereas in truth the said Mare was

Ware was not able to ride from I aforesaid, unto R aforesaid, but that Ware afterwards, to wit, the fourteenth day of August, Anno 11. abovesaid, at W in the said County of M, in riding from I aforesaid, towards R aforesaid, by reason of her lameness and debility was altogether tyred, and could not ride further, so that the said I falsely and fraudulently deceived him the said R in this behalfe: And by reason thereof the said R was not only compelled to hire another Horse to perform his Journey, but also in the dispatch of his business was very much hindered, to the damage of the said R of twenty pounds, &c. Not guilty pleaded, and Judgement given for the Defendant.

Case against
an Hostler for
negligent keep-
ing of a horse,
being at livery,
whereby he
dyed.

TRin. 13. Ja. rot. 566. ff. WL was attached by writ of Privilege, &c. to answer HN Gent. one of the Attorneys of the Court of the Common Bench, &c. And whereupon the said H in his proper person, complaineth that whereas the said J, the seven and twentieth day of November, Anno, &c. 11 at London, in the Parish of St. Mary Bow in the Ward of Cheap, had delivered to the said W a certaine Gelding of the said H, price ten pounds to feed with Hay, and safely and securely to be kept in the Stable of the said W, so long as it should please both parties, taking of the said H for every night and day, wherein the said Gelding should feed in the Stable of the said W, six pence of lawfull money of England to be paid to the said W when he should be thereof requested.

Negligence.

Nevertheless the said W minding him the said H, in this behalfe to hurt and prejudice, the said Gelding so badly, negligently, and un-circumspectly kept and governed, that the said Gelding, for want of good keeping and government of the said W, afterwards, to wit, the tenth day of December then next following, at L aforesaid, in the Parish and Ward aforesaid, dyed, to the damage of the said H of twenty pounds: And thereof bringeth Suit, &c. The Defendant pleadeth not guilty.

And Judgement for the Defendant.

Case brought
against the
Sheriffs of Lon-
don, for return-
ing no Goods
and Chattels

upon a *Fieri facias* debt and damages of the Goods of the Testator, after two *Nichills* returned upon two *Scire facias*'s against an Executrix, upon Judgement had against the Testator, where the Plaintiff by averment saith, that the Executrix had wasted, &c.

H 14. Jac. Rot. 2196. Brownlow. Midd. ff. SH late of London Alderman, and WC late of London Alderman, late Sheriffs of the City of London were attached by writ of Privilege, &c. to answer RF Gent. one of the Attorneys of the Common Bench, &c.

Recitall of the
Recovery.

And whereupon the said R in his own person complaineth that whereas the said R lately in the County of the late Lord the King of Common Bench here, to wit, at Westminster in the Court of Midd. in the Terme of Saint Hillary, Anno Reg. &c. 1. before EA Knight, and his Associates then Justices of the said Lord the King of the same Bench here, to wit, at Westminster aforesaid; by the consideration of the same Court, had recovered against RS late of, &c. otherwise called RS, &c. as well a certaine debt of forty pounds, as forty shillings, which to the said RF in the same Court of the King here, were adjudged for his damages which he had by occasion of detaining of that debt, whereof he was convicted, as by the Record and Proceedings therein in the same Court of the said Lord the King now, here remaining manifestly appeareth: And afterwards, to wit, the same first day of S. Anno Reg. et. 7. at London in the Parish of Saint Mary Bow, in the Ward of Cheap, the aforesaid R made his will, and constituted and ordained, one F then his wife, Executrix of the same Will, and afterwards, to wit, the same first day of September, Anno 7. abovesaid, there dyed (the

The party a-
gainst whom
the judgment
was given,
makes his
will and his Ex-
ecutrix and
dyeth, and
debt unpaid.

(the same R F being unsatisfied of his debt and damages aforesaid) after whose death, that is to say the second day of October then next following at London, in the Parish of Saint Mary Bow, in the Ward of Cheape, the same F took upon her the burthen of executing of that Will, and then and there, according to the due forme of Law, proved that Will, and afterwards, to wit, the third day of November then next following, divers Goods and Chattels which were of the said R S at the time of his death, sufficient to satisfie the said R F of his debt and damages aforesaid, came to the hands and possession of the said F, which said Goods and Chattels, the said F as Executrix of the said Will then and there administered, whereupon the said R F for that execution of the Judgement then remained, to be done the thirtieth day of October, Anno 7. abovesaid (the said Judgements then being in full force and strength, prosecuted out of the same Court of Common Bench of the said Lord the King here, a certain Writ of the said Lord the King of Scire facias upon the said Judgement against the said F, directed to the Sheriffs of London, where his Originall Writ against the said R S first issued, by which said Writ it was then commanded to the Sheriffs of London, that by honest and lawfull men of their Bayliwick, they make known to the said F S Widow, Executrix of the said Will of the said R S, that she should be before the Justices of the said Lord the King here, to wit, at Westminster aforesaid, in eight dayes of Saint Hillary then next following, to shew if shee had any thing for her selfe, or knew any thing whereof the said R F, execution against her of the debt and damages aforesaid, of the Goods and Chattels which were of the said R S at the time of his death, being in the hands of the said F to be levied, ought not to have according to the forme of the said Recovery, if to her it should seem expedient, and that they should then have there the names of them, by whom to her they should make it known, and that Writ, at which day here, to wit, at Westminster aforesaid, came the said R F in his proper person, and offered himselfe the fourth day against the said F of the Plea aforesaid; And shee then solemnly called came not, but made default.

The Executrix proved the Will.

Administration as an Executrix.

Scire Facias sued where the Action lyeth by originall. Recital of the first Scire Facias against the Executrix to have execution of the Testator.

The Plaintiff appeareth

but the Executrix appeareth not at the day in Court.

And the said S H and W C then being Sheriffs of London, then returned to the Justices of the said Lord the King here, that the said F had nothing in their Bayliwick, whereby they could make it known unto her, nor was found in the same, whereupon then as before, it was commanded to the then Sheriffs of London, that by honest and lawfull men of their Bayliwick, they should make known to the said F, that shee should be before the Justices of the said Lord the King here, to wit, at Westminster aforesaid, in eight dayes of the Purification of the blessed Mary then next following, to shew in forme aforesaid, if to her it shall seem expedient: At which day there came the said R F in his own person, and the said F the fourth day of the Plea, being solemnly came not but made default.

Shee hath nothing, nor is found returned upon a Scire Facias.

Another Scire Facias awarded.

And the said S H and W C, then Sheriffs of London as before, then returned to the Justices of the said Lord the King here, that the said F had nothing in their Bayliwick, whereby they could make it known unto her, nor found in the same, whereupon it was then considered in the same Court here, that the said R F should have execution against the said F of the debt and damages aforesaid, of the Goods and Chattels which were of the said R S at the time of his death, being in her hands to be levied by default of the said F, as by the Record and proceedings therein remaining in the same Court of the said Lord the King here.

Hath nothing returned.

Judgement that the Plaintiff have execution of the goods of the Testator.

A *Fieri facias*
against the
goods of the
Testator in
the hands of
the Executor.

Delivery of
the Writ to
the Sheriffs to
be executed.

The grievance.

Retorne of
the aforesaid
Writ of *Fieri*
facias.

Wasted.

the King manifestly appeareth, upon which said Judgement the said R F afterwards, to wit, the thirteenth day of February, Anno Reg. 7. above said, prosecuted out of the same Court in the Common Bench here, to wit, at Westminster aforesaid, a certaine Writ of the said Lord the King, of *Fieri facias* against the said F, directed to the then Sheriffs of London, by which said Writ the said Lord the King now commanded the then Sheriffs of London, that of the Goods, and Chattels which were of the said R S at the time of his death, in the hands of the said F in their Baylywick being, they cause to be made as well the said debt of ten pounds, which the said R F in the said Court of the said Lord the King, recovered against the said R S in his life time, as forty shillings which to the same R F in the same Court were adjudged for his damages, which he had by occasion of the detaining of that debt, and that they should have those monies before the Justices of the said Lord the King here, to wit, at Westminster aforesaid, from the day of Easter in fifteen days then next following, to give to the said R F for his debt and damages aforesaid, whereof the said R S was in forme aforesaid convicted, and thereupon it was considered in the same Court of the said Lord the King here, that the said R F should have execution against the said F for the debt and damages aforesaid, to be levied of the Goods and Chattels which were of the said R S at the time of his death, being in the hands of the said F, by default of the said F, which said Writ the said R F afterwards, to wit, the fourteenth day of February, Anno. 7. above said, at London in the Parish and Ward aforesaid, delivered to the said S H, and W C then being Sheriffs of London in forme of Law to be executed.

Nevertheless the said S H and W being, as is aforesaid, Sheriffs of London, little regarding their office of Sheriffs, nor having any due care or consideration in the execution of the said Writ, but altogether neglecting the execution thereof, and intending altogether to frustrate and hinder the said R F, from obtaining the debt and damages aforesaid, have not caused the said debt and damages of the aforesaid Goods and Chattels, which were of the said R S at the time of his death, being in the hands of the said F, at the time of giving of Judgement upon the said Writ of *Scire Facias* to be levied, nor have executed the said Writ in any lawfull forme of Law, nor have returned any lawfull or sufficient cause for not executing of the same upon the said Writ, at the aforesaid 15. of Easter, but the said S H and W C being, as is premised Sheriffs of London, at the said 15. of Easter at Westminster aforesaid (against the said Judgement given for the said R F, to have execution against the said F of the debt and damages aforesaid, in forme aforesaid, and so against the Law of the Land of this Kingdome of the said Lord the King now) have insufficiently and fraudulently returned upon the said Writ, that there were no Goods nor Chattels which were of the said R S at the time of his death, in their Baylywick, in the hands of the said F C widow to be administered, whereof the debt and damages aforesaid, or any penny thereof they could cause to be made according to the command of that Writ, wholly frustrating the execution of the debt and damages upon the Judgement aforesaid, for that that the said F the sixth day of February, Anno Reg. &c. 10. at Westminster aforesaid, wasted all the Goods and Chattels which were of the said R S at the time of his death, in the hands of the said F at the said time of giving the said Judgement against her, and afterwards, to wit, the twelfth day of August, Anno Reg. &c. 11. at Westminster aforesaid dyed, whereby no further execution could possibly be had against the said F for the debt and damages aforesaid, whereupon the said R F saith, that he is made worse, and hath damage to the value of one hundred pounds: And thereof bringeth suit, &c. Pleades to prosecute I D, R R.

Quare si cest Action lieth, if in truth the Executrix had no goods of the Testator in London.

M II Jac. rot. 656. Waller. Midd. ff. G R of London. Alder, Action upon the Case
man and E B of London Alderman, Sheriffs of the City of the Case
London, in mercy for many defaults, &c. the same G and C were brought by an
attached to answer M T Widow, Administratrix of the Goods and Administ-
Chattels which were of T T Knight, who died intestate, &c. of a Plea against
trespass upon the case, &c. And whereupon the said M by R W her Atto-
ney complaineth, that whereas E B Widow, and A U Administrator of London, for
the Goods and Chattels which were of H V Esquire who died intestate, returning a
&c. elsewhere, to wit, in Easter Term, Anno Reg. 10. in the Court of the Devastavit
said Lord the King of the Common Bench here, before Edward Cook Knight, upon a Fi. fac.
and his Associates, then Justices of the said Lord the King of the Bench of the goods
aforesaid here, to wit, at Westminster aforesaid, in the County of Midd. by the
the consideration of the same Court, had recovered against the said M, by the Admini-
name of M E of London Widow, Administratrix of the Goods and Chat- stratrix.
tels which were of T T Knight, who died intestate, &c. lately called, &c. Judgment a-
otherwise called, &c. as well a certain debt of six hundred pounds, as, &c. gainst the Ex-
which to the same E and A in the same Court of the said Lord the King were ceutors of the
adjudged for their damages, which they had by occasion of the detaining of Goods of the
that debt, of the Goods and Chattels which were of the said T T at the time Testator.
of his death, being in the hands of the said M to be administered, if she should
have so much thereof in her hands: And if she should not have so much, then
the damages aforesaid of the proper Goods and Chattels of the said M to be
levied: And that the said M should then be in mercy, &c. As by the Record
thereof remaining here in the same Court of the said Lord the King of Com-
mon Bench aforesaid, more fully appeareth.

T 12. Jac. rot.
868.

And also whereas the said E and A have upon the judgment aforesaid gi-
ven as is premised, to wit, the nine and twentieth day of April, Anno 10. a-
bovesaid, prosecuted out of the Court of Common Bench of the said Lord the
King here, to wit, at Westminster aforesaid then being, a certain Writ of Fieri
facias to the Sheriffs of London (where the original Writ for the debt afo-
said first issued) directed by which said Writ of Fieri facias, the said Lord
the King commanded the then Sheriffs of London, that of the Goods and
Chattels which were of the said T T, at the time of his death, in the
hands of the said M Administratrix of the Goods and Chattels
which were of the said T T, who died intestate, &c. as it is said,
in their Waplywick they would cause to be made, as well the said debt of six
hundred pounds, which the said E and A in the aforesaid Court of the said
Lord the King, before his Justices here, to wit, at Westminster aforesaid re-
covered against the said M, as the said sixteen pounds, which in the same
Court of the said Lord the King here were adjudged for their damages, which
they had by occasion of the detaining of that debt, of the same Goods and
Chattels, if so much thereof she should have in her hands: And if she should
not have so much, then the damages aforesaid of the proper Goods and Chat-
tels of the same M to be levied: And that they should have those moneys be-
fore the Justices of the said Lord the King here, from the day of Easter in
five weeks then next following, to render to the said E and A for their debt
and damages whereof he is convicted.

And whereas also after the time of the obtaining of the said Writ of Fieri
facias, and before the day of the return of the same, to wit, the fourteenth day
of May, Anno Reg. 10. abovesaid, the said Writ was delivered to the said G
and E B then Sheriffs of London, in form of law to be executed. And al-
though the same M never wasted any of the Goods or Chattels which were of
the said T T at the time of his death, nor ever converted them to his own use.

A Suggestion
that the Writ
was delivered
to be executed
after the re-
turn thereof.

Peber

The Sheriffs
return a De-
vastavit where
the Plaine, had
not wasted.

Nevertheless the said G and E B, being Sheriffs of London, as is pre-
mised, not caring for their said Office of Sheriff, nor the true and just execu-
tion of the same, but intending the same M fraudulently, unduly, and un-
justly to wrong, have returned the said Writ of Fieri facias to them, in form
aforesaid directed and returned before the said Justices of the said Lord the
King here, to wit, at Westmin. aforesaid, at the said five weeks from Easter
last, maliciously, and against their due oaths, that the said M had wasted di-
vers Goods and Chattels which were of the said T T at the time of his
death, to the value of the debt and damages aforesaid, after the death of the said
T T, which came to the hands of the said M in their Bayliwick to be
administred, before the coming of the said Writ, and converted them to his
own use, whereby the debt and damages aforesaid, or any parcel thereof, of
those Goods and Chattels they could not cause to be made. By virtue of
which said return so falsely and maliciously made, not only the body of the
same M, but also all her Lands and Tenements, Goods and Chattels be-
came charged with the Execution, for not payment and satisfaction of the debt
and damages aforesaid, and so were and are charged and bound to the damage
of the said M of eight hundred pounds. And thereof she brought Suit,
&c.

The damage.

The Defendant pleaded not guilty, and after a trial at barre, and
verdict for the Defendant, judgment was given afterwards for the Defen-
dant.

Action upon
the case for a
Commoner
who claims,
Common ap-
purtenant by
prescription, a-
gainst I S for
chasing his
sheep and ha-
ving a way
through the
Common, that
he could not
enjoy his Com-
mon.
His prescripti-
on and others
whole estate,
&c. to have
common of Pa-
sture for a cer-
tain number of
years.
A Lease for
years pleaded,
to commence
immediately.
Lessee for years
grants his es-
tate.

T 41. Eliz. rot. 303. Brownlow. Ebor. ff. E W with sixteen others
were attached to answer W W, &c. And whereupon the same W W
by I W his Attorney complaineth, that whereas one G F Knight was sei-
sed of one Messuage, one hundred Acres of Land, &c. to it belonging, called
S in S in the County aforesaid, in his Demesne as of fee. And all those
whole estate the said G had in the aforesaid Tenements, with the appurte-
nances called S, from the time whereof the memory of man is not to the con-
trary, have had, and were accustomed to have, for them, their Tenants and
farmers of the Tenements aforesaid, with the appurtenances, common of
Pasture for three hundred Sheep, and one Bell-weather, within the said Te-
nements, lying and being in three hundred acres of Pasture, called P in L in
the County aforesaid, every day by the whole day in every year, as belonging
to the said Tenements, with the appurtenances, called S.

The said G being so thereof seized the fourteenth day of September, Anno
Eliz. 27. at S aforesaid, demised to one R H Gent. the Tenements aforesaid,
with the appurtenances called S, to hold and occupy to him and his As-
signs unto the full end and Term of twenty one years from thence next fol-
lowing, and fully to be ended, by virtue of which Demise the same R was pos-
sessed of the Tenements aforesaid, with the appurtenances. And being so
thereof possessed the eleventh day of November, Anno 38. Eliz. at S aforesaid
granted to the said W W his whole state, interest, and term of years,
which he then had to come of and in the Tenements aforesaid, with the ap-
purtenances.

By virtue of which said grant the said W W into the Tenements aforesaid,
with the appurtenances, entered, and was and yet is thereof possessed,
and being thereof so possessed 2. Aug. Anno 36. Eliz. put three hundred
Sheep and one Bell-weather of the said W W upon the Tenements aforesaid,
with the appurtenances, lying and being in the said two thousand acres of
Pasture, called P (where the said W W ought to have common of Pa-
sture, as in form aforesaid, with three hundred Sheep and one Bell-weather of
the said W, lying and being upon the said Tenements called S, as belong-
ing to the said Tenements, to eat the grass then and there growing, using his
Common aforesaid. And the same Cattle being in the said two thousand
acres

The Plaintiff
puts Cattel up-
on his Com-
mon.

acres of Pasture, using his said Common, the said C (with the others) binding and intending the said W W unjustly to hinder and disturb from having and possessing his said Common with his Cattel aforesaid. And that the said W W might be caused to lose his said Sheep and Bell-weather for want of Pasture for them in the said two thousand acres of Land, with the appurtenances, the said Sheep and Bell-weather of the same W W, without the said two thousand acres of pasture the said second day of Aug. Anno 36. abovesaid, with certain Dogs chased, and have not permitted the said W W to have and enjoy his common of Pasture there for his said Cattel, from the aforesaid twentieth day of Aug. Anno Reg. &c. 36. abovesaid hitherto, so that one hundred and ninety Sheep of the said Sheep by the said chasing, and for want of due feeding, which the said Sheep would have enjoyed, and had in depasturing in the said two thousand acres of Pasture, if the said E (and others) him the said W W from having his said common of Pasture for his Cattel aforesaid, as is premised, had not hindered, dyed, to the damage of the said W W of one hundred pounds. And thereupon he brings Suit, &c.

Wrong and damage:

AND the said E (with the others) no Action, because by protestation they know not any thing in the said Writ and Declaration above specified to be true for Plea, the said E (and others say) that long before the said trespass was supposed to be done, one W W was seised of the Mannor of L in the County aforesaid, whereof the aforesaid two thousand acres of Pasture, with the appurtenances, called P in L aforesaid, were parcel in his Demesne as of fee, by the aforesaid time, and from the time whereof the memory of man is not to the contrary: And held the said Mannor of the said Lady the Queen now as of the Mannor of E in the County of K in free socage, that is to say, by fealty only for all services. And being thereof so seised the first day of April, Anno Reg. 34. at L aforesaid made his last Will and Testament in writing, and by the said Will gave and bequeathed the Mannor aforesaid, with the appurtenances, wherein, &c. to hold to him the said E W and his Assignes for the term of his life. And afterwards and before the said time, in which, &c. the said W W at L aforesaid died seised of the said state of and in the Mannor aforesaid, with the appurtenances, whereof, &c. after whose death, and before the time aforesaid, &c. the aforesaid E entered into the Mannor aforesaid, with the appurtenances, and was thereof seised in his Demesne as of his free-tenement for term of his life, by virtue of the request aforesaid, and being so thereof seised, the aforesaid W W having no right of commoning with his Sheep and Bell-weather aforesaid, in the aforesaid two thousand acres of Pasture, with the appurtenances in the aforesaid, before the said time in which, &c. put the aforesaid two hundred and forty Sheep, and one Bell-weather into the aforesaid two thousand acres of Pasture, called P in L aforesaid, to eat the grasse then and there growing. And because the aforesaid Sheep and Bell-weather at the aforesaid time in which, &c. were depasturing and doing harm in the aforesaid two thousand acres of Pasture, the same E in her own right, and the aforesaid A, B, &c. servants of the aforesaid E, and by her command, at the aforesaid time in which, &c. the aforesaid Sheep and Bell-weather out of the aforesaid two thousand acres of Pasture, called P in L aforesaid, with a certain Shepherds dog easily and lightly chased, as it was lawful for them to do, without that, &c. and traverseth the prescription in the Declaration. Issue upon the prescription.

The Defend. justifies as Lord of the Mannor of S, and that the place in which the Plaintiff hath no title to common with his Sheep in the place in which, &c. and that he chased his Sheep, &c. doing damage, &c. and traverseth the prescription of the Plaintiff.

Legationis.

Damage doing.

The prescription traversed.

Warburton.

T 17. Jac. rot. 3154. Brownlow. ff. S B by T H his Attorney complaineth against I T, &c. for that whereas the same S the twentieth

An Action upon the case brought for moneys due &c

to be given in exchange for a Horse.

day

day of Aug. Anno Reg. 13. was possessed of a certain Mare, price one hundred shillings, as of his own Mare. And also whereas the said I was then and there likewise possessed of a certain Gelding, price forty shillings, as of his own Gelding, and the said S being as is premised possessed of his said Mare, and the said I in form aforesaid being also possessed of the said Gelding, the said twentieth day of Aug. 13. abovesaid, at C a certain conference and communication was moved and had between the said I and the said S, of and concerning an exchange to be made between the said S and I, of the said Mare of the said S for the Gelding of the said I, upon which said conference the said I the aforesaid twentieth day of Aug. in the thirteenth year abovesaid at C aforesaid, in consideration that the said S at the said special instance and request of the said I would exchange his Mare aforesaid with the said Gelding of the said I, upon himself assumed, and to the said S then and there faithfully promised to pay unto the said S thirty shillings of lawful money of England, with the Gelding of the said I in exchange for the Mare of the said S when he should be thereunto required.

And although the said S giving credit to the faithful promise and assumption of the said I, afterwards, to wit, the twentieth day of Aug. Anno 13. abovesaid, at C aforesaid, at the aforesaid instance and request of the said I, exchanged the said Mare with the said I for the Gelding of the said I. and there gave and delivered unto the said I the aforesaid Mare in exchange for the gelding of the said I.

Nevertheless the said I his promise and assumption aforesaid little regarding, but minding and intending the same S in this behalf craftily and subtilly to deceive and defraud the aforesaid thirty shillings unto the said S, although hereunto afterwards, that is to say, the twentieth day of September, Anno 13. abovesaid, and often afterwards at C aforesaid was thereunto required, he not paid, &c. Damage ten pounds.

H 12. Jac. rot. 3228. Between Wallopp and the Bishop of Exeter, Action upon the case brought by the Patron against the Ordinary refusing to admit of a Clerk upon a Writ directed to the Bishop, upon a Writ in a quare impedit.

Trespass upon the case for not payment of money according to a match made at shooting.

T. 17. Jac. rot. 2027. the like case upon a horse race.

T Rin. 19. Eliz. rot. 719. T W Esquire, against S of a Plea, that where as the twenty fifth of September, Anno &c. 15. a certain match to shoot at Wicks at C was concluded upon between C H Knight, and the said I, whether the said C or the said I should win the match, in attaining to the first fifteen shoots, the said I in consideration that the said T then and there had assumed upon himself, and to the said I had faithfully promised, that if the said I should win of the said C the said Match in shooting, that then he the said T should pay ten pounds to the said I would pay and content when he should be thereof required, upon himself assumed, and to the said T then and there faithfully promised, that if he the said C should win the said Match of the said I, that then he the said I should pay ten pounds to the said T well and faithfully would content and pay when afterwards he should be thereunto required.

And although the said C won the said Match of the aforesaid I, the said twenty fifth day of S aforesaid. Nevertheless the said I his promise and assumption aforesaid little regarding, &c.

Case for not safe covering of his fire.

T 15 and 16, H 8. rot. 114. Case for not covering his fire, whereby his neighbour is damaged, &c. M 14. Jac. rot. 2123. P 38. H 8. rot. 2027. P 10. H 5, rot. 105.

H 13. Ja. rot. 3 597. ought not to have his Action, because he saith, that the aforesaid C D after the aforesaid third day of October, Anno 12. above said, in the Declaration aforesaid specified, that is to say, such a day and year at L aforesaid pawned the aforesaid silver and gilt bowle to the said A B for securing of forty shillings of lawful money of England, by him the said A B to the said C D then and there lent, to be kept by the said A until the said C D the same forty shillings, together with the profit and interest for the same forty shillings, according to the rate of ten pounds for a hundred pounds, should pay unto the said A B, which said forty shillings the same C D unto the said A B hitherto hath not paid; by reason whereof the said A hitherto keepeth the aforesaid bowle for the aforesaid forty shillings being unpaid, as it was lawful for him to do, without that that the said A did convert and dispose of the said bowle to his own use, &c. And this, &c. 4 E 6. Br. action upon the case, Pl. 113. action.

Barre in Trover, for a silver and gilt bowle, that the Plaintiff pawned it to the Defendant, for moneys lent, and that he keeps it as a pledge for the same money not paid. The conversion is traversed, pl. 113. Action.

I 7. Jac. rot. 553. Rooper. We it remembered, that elsewhere, to wit, Mich. 6, &c. Essex. ss. E P Knight, and R W Knight, Executors of the last Will and Testament of I W late of R, &c. Knight deceased, Executors of the last Will and Testament of R P late of W in the County of E Middlesex deceased, do complain of one T S late of H in the County of E Essex, Executor of the last Will and Testament of I L in the County of E Essex deceased, in the custody of the Marshal of the Marshalsey of our Lord the King, before the same Lord the King being, for that whereas the same R in her life time, to wit, the seventh day of February, Anno Dom. 1695. at W in the County aforesaid had lent unto the said L in his life time two hundred pounds of lawful money of England: The said I in consideration thereof then and there upon himself assumed, and to the said Rose in her life time faithfully promised, that he the said I two hundred pounds of lawful money of England to the said R, her Executors or Administrators, when he should be thereof requested, would well and faithfully content and pay.

Trespass upon the case against an Executor upon a promise made by the Testator, brought by the Executor of the Executor of the first Testator. See Cook 9, fo. 87, the like Case. Plowden Com. fo. 180. B Norwoods and Reads Case. Consideration, Assumption.

Nevertheless the said I L in his life time, and the said T after the death of the said I, the promise and assumption of the said I L in his life time as aforesaid, made little regarding, but the said I L in his life time endeavouring and fraudulently intending the said Rose in her life time, and the aforesaid I after the death of the said I, And the aforesaid T after the death of the aforesaid I L, in like manner endeavouring, and fraudulently intending the said E and R after the death of the said R and I W of the said two hundred pounds craftily and subtilly to deceive and defraud, the said I L in his life time the aforesaid two hundred pounds to the said R in her life time, or to the said I W after the death of the said R, nor the said T after the death of the said I L, the aforesaid two hundred pounds to the said E and R after the death of them the said R and I W, or to any of them: Although the said I L in his life time, by the said R in her life time, and by the said I W after the death of the said R, were thereunto often requested, have not paid.

And although also the said T after the death of the said I L, by the said E and R, to wit, the twentieth day of Septemb. Anno 6. above said, at L in the County aforesaid was likewise requested: And although the Goods and Chattels which were of the said I L at the time of his death, which came to the hands of the said T after the death of the said I L at L aforesaid, and then and yet are in the hands of the said T, are sufficient as well to pay and discharge all debts and funeral expences of the said I L, as to satisfy the said E and R of the aforesaid two hundred pounds, have not paid, nor either of them hath paid, whereby the same E and R divers gains and emoluments, which they with the aforesaid two hundred pounds in lawful buying, selling, and bargaining might have lawfully obtained, and had, have wholly lost, to the damage of the said E and R of two hundred and forty pounds, and in delay of execution of the last Will and Testament of the said R: And thereof they bring suit, &c.

Letters testam-
entary
theven.

Hill. 27. Eliz. r.
23. between F
and the Exec.
of H such a
Declaration
and judgment
for the Plaintiff.
M 15 & 16. E
101, 1959. or
959 the like.
The Testator
in his life time
did not assume

Ni. pri.

More damages
given then the
Plaintiff had
committed.

Release of the
overplus of
damages, and
judgment for
the rest, *Pilf.*
Case Cook 10.
fo. 110. T 16.
12. rot. 2077.
in the Com-
mon Bench.

Judgment a-
gainst an Exe-
cutor in an
Action upon
the Case.

An Action up-
on the Case
brought by an
Attorney a-
gainst the Exe-
cutors of his
Client for Sol-
licitors fees
due for de-
fence of a
Chancery
Suit upon pro-
mise of the Te-
stator.
See whether it
lieth by an o-
riginal or not,
because Mr.
Brownlow said
so to Mr. *Howell*

And they bring here into Court as wel the letters testamentary of the said R, by which, &c. the said I W to be Executor of the said R, & thereof, &c. as the Letters testamentary of the said I W, by which, &c. and thereof, &c. *Nota*, it needeth not to averre, that he had assets, &c. See *Cook* 9. fo. 87. Case adjudged.

AD now here at this day, that is to say, Friday next after the morrow of the holy Trinity in the same Term, until which day the same T had licence to imparke to the aforesaid Bill, and then to answer, &c. before the Lord the King at Westm. came as well the said E and R by their Attorney aforesaid, as the said T by A B his Attorney: And the said T defends the force and wrong, when, &c. and saith, that the said I in his life time did not assume upon himself in manner & form as the said E and R above against him do complain, & hereof, &c. & the said E and R likewise, the ve. sa. is returnable upon Saturday next after twenty five days of the holy Trinity, and who neither, &c. do recognize, &c. because as well, &c. The same day, &c. afterwards proccesse therein is continued, &c. until Sunday next after eight dayes of St Michael then next following, unlesse the Justices of the said Lord the King of Assize, &c. upon Sunday the twenty fourth of July at Chelmsford in the County aforesaid, shall first come for defect of Jurores, &c. before which day the said Plaintiff was adjourned by writ of the said Lord the King of Commend adjournment before the said Lord the King at Westm. came the same E P and R W by their said Attorney. And the said Justices before whom, &c. sent here the Record before them had in these words, afterwards, &c. and verdict passed for the Plaintiff, and they assessed damages to three hundred pounds, and for costs twenty shillings. And because the Court is not yet advised of giving judgment of and upon the premises, further day is therein given until Tuesday next after eight dayes after St. Hill. to hear judgment thereof, for that the Court of the said Lord the King here thereof have not, &c. and so is continued until Wednesday next after, &c. Anno 8. at which day before the said Lord the King at Westm. came the said E and R by their Attorney aforesaid, whereupon all and singular the premises being fully seen and understood, and mature deliberation being thereof had, the same E P and R W freely here in Court remit to the said T L forty pounds, part of the said three hundred pounds assessed by the Jury aforesaid, for not performance of the assumption aforesaid. Wherefore the said T of the said forty pounds be acquitted, &c. whereupon no respect had to the aforesaid forty pounds, it is considered, that the said E and R recover against the said T L his damages which he had by occasion of not performing his assumption aforesaid, to 240 l. of the said 300 l. remainder of the said damages, by the Jury aforesaid. in form aforesaid assessed. And the said 20 s. to the said E & R for their costs & charges, by the Jury aforesaid, in form aforesaid likewise assessed: And also 12 l. for the costs and charges of the said E and R by the assent of the Court of the said Lord the King here of increase adjudged, which said damages, costs and charges in the whole do amount unto 252 l. of the goods and chattels which were of the said I L at the time of his death in the hands of the said T L to be levied if he have so much in his hands, & if he have not so much in his hands, then the said 20 s. & the aforesaid 12 l. to be levied of the proper goods and chattels of the said T L, and the said T L in mercy, &c.

T 17. J. rot. 3154. *Brownl. & W T. Exec. of the Test. of E T.* was attached by writ of privilege to answer T H, one of the Attorneys, &c. of a plea, that whereas the said E in his life time the 27 day of Apr. An. 12. 7. at L, in consideration that the said T at the special instance & request of the said E in his life time would retain for the said E in his life time in the name of the said E an Attorney of the Court of Chancery of the Lord the King to be Attorney for the said E in his life time, and to appear for the said E in the said Court of Chancery at Westm. in the County of Midd. then being, to a certain Bill of Complaint before that time exhibited against the said E by one W T in the same C. of Ch. at W. aforesaid then being, & defend the same cause for the said E, & that the said T at the aforesaid special instance & request of the said E would

Sollicit

solicit the cause aforesaid for the said E against the said W in the said Court of Chancery upon himself did assume, and to the said T then and there faithfully promise, to pay unto the said T H for his labour in every term wherein the said T H should solicit the cause aforesaid for the said E in form aforesaid three shillings four pence, besides Attorneys fees and all other costs and expences to be laid out by him the said T H in and about the solicitation and defence of the said suit when afterwards he should be thereunto requested, well and faithfully would pay and content.

And although the said T H in the life time of the said E afterwards, to wit, in Easter Term, Anno 7 J abovesaid, at L aforesaid, retained for the said E in his life time in the name of the said E one G E Esquire, then being one of the Attorneys of the said Court of Chancery of the said Lord the King, to be the Attorney of the said E in the said Court of Chancery, & to appear for the same E in the said Court of Chancery to the Bill of Complaint of the said W T against the said E exhibited in the same Court of Chancery as is aforesaid, which said Attorney afterwards, to wit, the same Term of Easter, Anno 7. abovesaid, appeared to the said Bill of Complaint in the same Court of Chancery for the said E in his life time, and defended that cause for the said E in his life time, as his Attorney, in Easter Term, and seven Terms then next following in the same Court of Chancery. And although also the said T H being Solicitor of the said E in his life time in the said Court of Chancery of the said King at Westmin. aforesaid being, in the cause aforesaid, and so stood in Easter Term, and for seven Terms then next following, and twenty six shillings and eight pence were due and payable to the said T for his fees of a Solicitor for the said Termes, and that the same T had paid and deposited twenty six shillings eight pence to the said G E for his Attorneys fees for the same eight Terms, and also eighteen pounds and thirteen shillings for costs and expences in and about the prosecution and defence of the same suit to divers other Officers, Clerks and Ministers of the same Court of Chancery had laid out and disbursed, which said several sums of money in the whole do amount unto twenty one pounds six shillings and eight pence.

Nevertheless the same E in his life time his promise and assumption aforesaid little regarding, but minding and intending fraudulently to deceive him the said T H in this behalf, the aforesaid twenty one pounds six shillings eight pence, according to his promise and assumption aforesaid hath not paid, although the said E in his life time the twenty fourth day of November, An. 9. J at L aforesaid, was thereof requested, but the same to him to pay gain said. And the same W the same to the said T after the death of the said E, although often requested, according to the aforesaid promises and assumptions of the said E, altogether to pay hath refused, and still refuseth, to the damage of the said T of forty pounds, and thereupon bringeth suit, &c. Pledges, &c.

See T 17. Jac. rot. 513. Brownlow. Between K and L such an Action is brought against an Administrator upon the promise of the intestate, The Defendant pleads fully administered: And the Plaintiff averres, that he had assets in his hands at the day of the purchasing the original writ to the value of the damage in the Declaration, whereof he might have satisfied those damages, T 16. Jac. rot. 2077. Brownlow. Between G against E, Case brought by an Executor of an Executor, against an Administrator upon the promise of the Intestate to the first Testator, and judgment for the Plaintiff. T 12. Ja. rot. 2133. fully administered is pleaded to an Action upon the Case.

T 7. Jac. rot. 2082. Brownlow. Norff. ff. W A against T B of a Plea, that whereas the same W the twenty ninth day of September, Anno Reg. &c. 6. and before was, and yet is seised of and in one Messuage with the appurtenances, and of one parcel of Land, containing in length thirty one feet, and in breadth two feet and an half, lying in H aforesaid against the Hall

An Action upon the Case brought for Nuisance in obstructing the lights and erecting a Hogsty.

T 17. Jac. rot. 3038. Browal North, between B and C an Action upon the Case is brought for erecting a Hogsty and other Nuisance to his neighbor, the Def. justifies the use of the said Hogsty by prescription, and traverseth that he counted part of the wood-house to the Hogsty, and thereupon issue.

T 21 Jac. rot. 3090. M against C, Case for making a sink and vault next the house of his neighbor.

and Parlour of the said W of the Messuage aforesaid, on the west side in his demise as of fee, and also whereas the said T the same day and year, and before was, and yet is possessed of one little Orchard lying in H aforesaid upon the East side of the said parcell of Land of the said W and neere adjoining to the said parcell of Land in H aforesaid, the same T maliciously devising, and intending to hinder and deprive him the said W of his easement and profit of his aforesaid Messuage and parcell of Land, the nine and twentieth of September, Anno 6 abovesaid, a certaine wood-pile in the said Orchard of the said T neer the said parcell of Land of the said W built and erected, and the same so high raised, that the upper parts thereof so much overhung the said parcell of Land of the said VV and extended so neer his hall aforesaid and the chambers of the said W placed and made over the said Hall, that by the said wood-pile so there erected and built, and overhanging the said parcell of land of the said W, and placed and made (as is premised) so neer the Hall and Chambers aforesaid, that as well all the windows and lights of the said W of the Hall and Chamber aforesaid, as also the doore of the said Hall were altogether stopped and hindered, and being so stopped, for a long time remained, whereby the said W the whole benefit, easement, use and profit, as well of the said parcell of Land as of all his windows, lights and doore aforesaid by the whole time aforesaid wholly lost. And the said T further endeavouring, and maliciously intending very much to prejudice him the said W of the whole benefit, easement, use and profit of his whole Messuage aforesaid, and him thereof wholly to deprive the aforesaid twenty fourth day of September, Anno 6. abovesaid, a certain edifice for his Sows and Hogs in his Orchard aforesaid so neer the Hall and parlour of the said VV aforesaid erected, and his sows and hogs into the said edifice in the same Orchard put, and them there by a great time kept, so that by the corrupt and unwholsome smells of his said Sows and Hogs of the said T penetrating and coming into the Hall and Parlour of the said W, and other parts of the said Messuage of the said W, the said W, and his family and other persons using to be conversant in the said Messuage, could not continue or stay in the said Hall and Parlour and other places of the said Messuage without danger of infection, by reason whereof the same W by the whole time aforesaid altogether lost the whole benefit, easement, use and profit of the greatest part of his Messuage aforesaid, to the damage of the said W of forty pounds, &c.

The Defendant pleaded not guilty. And verdict for the Plaintiff.

And it was moved in arrest of judgment, that the erecting of a Hogsty was necessary for mans sustenance, and that the Common Law favours not the suggestion of delicate persons, but the Court gave judgment for the Plaintiff. See Cook 9. fo. 55. such a Case.

Case against an Attorney for appearing without warrant from the Defendant.

T 25. Eliz. rot. 1851. ff. Hill. brings his Action of Case against Trot, one of the Attorneys of the Common Bench, for appearing for him without warrant, and declares that one N such a day did prosecute an original writ against the Plaintiff out of Chancery upon demand of two hundred pounds, and declares upon the Record, and that the Attorney appeared without warrant, intending falsely and deceitfully to condemn him the said I H in the Action aforesaid, whereas the said I H could lawfully have discharged himself of the Action of the said B. Nichil dic. &c. And so was out-lawed. And afterwards taken upon the Capias, ut legat. to the damage of the said Plaintiff of five hundred pounds, &c.

The Defendant pleads, that the principal retained him to appear for himself & his surcises, and that he had no instructions to plead, and the Court gave judgment by Nichil dic.

And the said Defendant saith, that no Action, &c. because he saith, that long before the exhibiting of the said Bill of the said I H, to wit, the twenty eight day of June, Anno Reg. &c. 13. at the City of C in the County

of the said City, one I B, and the said I H, and the aforesaid B N, at the speci-
all instance and request of the said I B, by their writing obligatory, bearing
date the same day and yeare were jointly and severally bound to one S W
Citizen, and Haberdasher of London, in one hundred pounds of lawfull mo-
ney of England, for the true payment of fifty pounds, being the only debt of
the said J B at a certain day specified in the indorsement, of the said writing &
afterwards, to wit, the twenty eighth day of June, An. 13. abovesaid, at the Ci-
ty of C aforesaid, the same J B & J H at the like instance & request of the same

Obligation.

P. 21. Jac.
Rot. 815.See P. 10.
Eliz. Dyer,
to. 361. Pl.
13. Manser
and Franck-
lins case.

J B by his other writing obligatory, bearing date the same day and yeare
were jointly and severally bound to the said I B in two hundred pounds of
lawfull money of England, with condition thereupon indorsed, reciting, that
whereas the said B N together with the aforesaid I B and J H, at the request
and desire of the said I B, for the only debt of the said I B by their writing ob-
ligatory of the same date, were held, and stood jointly bound to the aforesaid S
W Citizen, and Haberdasher of London, in the sum of one hundred pounds
of lawfull money of England, with condition thereupon indorsed, as by the said
writing obligatory, with the condition more at large, may appear, if the
said J B and I H, their Executors, Administrators or Assignes, at all times
after the date of the said writing obligatory would clearly acquit, discharge,
and save indemnified the same B N, his Executors, and Administrators, and
all their Lands, and Tenements, Goods and Chattels against the same S W,
his Executors, Administrators, and Assignes, and every of them, of and
concerning the said sum of one hundred pounds, and every part and parcell
thereof, and of the said writing obligatory, and the condition thereof, and
from all costs, damages, hindrances, suits, troubles, condemnations, judg-
ments, and executions, which to the same B N, his Heires, Executors, or Ad-
ministrators, may come by reason or virtue of the said writing obligatory
of one hundred pounds, that then the aforesaid writing obligatory of two hun-
dred pounds should be void and of none effect, otherwise it should stand and
be in full force and virtue: And further the said I T saith, that the said I B
afterwards, to wit, the aforesaid eight and twentieth day of June, Anno 13.
abovesaid, at the aforesaid City, &c. by his certaine writing obligatory, da-
ted the same day and yeare, was bound to the said I H in four hundred
pounds of lawfull money of England, with condition thereupon indorsed, to
discharge and keep harmlesse the said I H, his Heires, Executors, or Admi-
nistrators, against the said B N, his Executors and Administrators, of, for,
and concerning the abovesaid writing obligatory of two hundred pounds, and
afterwards, to wit, the nineteenth day of March, Anno 15. abovesaid, the
said B N prosecuted out of the aforesaid Court of Chancery, the said originall
Writ of the aforesaid debt of two hundred pounds, upon the aforesaid writing
obligatory, specified in the said Bill against the aforesaid I H, and against
the aforesaid I B, severally directed to the then Sheriffs of London, by which
Writ, and recite the Originall, and the Nichill upon the returne, where
they might have summoned, upon which said Writ the aforesaid plaintiff was
by due Process of Law issuing out of the Court here, upon that Writ was
continued against the said I B and the said I H of the aforesaid debt of two
hundred pounds severally, before the Justices here, to wit, at Westminster
abovesaid, untill from the day of Saint Michael in one moneth, Anno Reg.
15. abovesaid: And the same I T saith further, that the said I B, after the a-
foresaid day of obtaining of the aforesaid Originall Writ of the aforesaid
debt of two hundred pounds severally, against him the said J B, and against
the said J H and before the said moneth of Saint Michael, to wit, the fourth
day of October, Anno 15. abovesaid, at the aforesaid City of C. for himself,
and for and in the name of the said J H, retained the said J T to be Attorney
as well for the said J H, as for the same J B, in the same Plaint against the
same J. and I, by the same B (as is aforesaid) severally obtained, by virtue of
which

Counter-
bond.Process continued untill
M. M.The Defen-
dant pleads
a retainer by
the principall
in a bond for
him and his
which Sureties.

which retainer, the same J T to the same writ against the said J, and J, in
 forme aforesaid, obtained for the same J B and I H, as the Attorney of the said
 I B and I H afterwards, to wit, in Michaelmas Terme, Anno Reg. &c. 15. abo-
 beseid, before the then Justices of the Lady the Queen here, to wit, at
 Westminster aforesaid appeared, as it was lawfull for him to doe, and prayed
 license to imparte to the severall declarations against the said I, and J, upon
 the said writ severally made for the said I, and J severally, here, to wit, at
 Westminster untill in eight dayes of Saint Hillary then next following, and
 then severally had them, &c. and the same day was given to the said B, in
 the severall Pleas aforesaid there, &c. from which said eight dayes of Saint
 Hillary, the aforesaid plaints were severally continued between the said B,
 and the aforesaid I H, by many continuances thereof, made in the same
 Court, of the assent, and by the knowledge of the said I B, untill the morrow
 of the holy Trinity, Anno Reg. 19. and the same I T further saith, that in the
 same Terme of the holy Trinity, by the then Justices of the said Lady the
 Queen here, to wit, at West. aforesaid, it was ordered in the same Court
 here, that if the said J H shal not sufficiently plead in Bar of the Action of the
 said B, in eight dayes of Saint Michael then next following, that then judg-
 ment should be given against the said I H in the said plaint, and the said I H
 then in the said Court had further licence thereof, to imparte here, to wit,
 at Westminster aforesaid, untill the said eight dayes of Saint Michael, the
 same day was then given to the said B there, &c. of which said order, the
 same J T at the City of C aforesaid, gave notice to the said J B, that the said
 I H then and after the aforesaid eight dayes of Saint Michael, was to the said
 I T unknown, by reason whereof the said I T could not give notice. to the
 same I H, at, or before the said eight dayes of Saint Michael, and the said I
 B so having notice of the order aforesaid, so as aforesaid made in Court the
 same I B, nor the said I H, nor any other for the same I H, at or before the said
 eight dayes of Saint Michael, gave to the said I T any thing of matter to
 plead for the said J H, in the aforesaid Action, by occasion whereof the said
 I T said nothing in Bar, or preclusion of the aforesaid Action of the said B,
 against the said I H in forme aforesaid prosecuted, whereby the said B then re-
 mained against the said I H, thereof without defence, whereupon it was then
 considered in the same Court of the Lady the Queen here, that the said B
 should recover against the said I H, the aforesaid debt of two hundred pounds,
 and his damages by occasion of the detaining of the said debt to sixty six shil-
 lings eight pence to the same B, by the said Court then here adjudged, and
 that the said I H should be then in mercy, &c. whereupon the said I H after-
 wards, to wit, on Sunday next before the said Feast of Saint D, the Arch-
 bishop, Anno Reg. 20. abobeseid, by due Procelle of Law, out of the Court
 of the said Lady the Queen here, at the prosecution of the said B, issuing at
 London aforesaid was outlawed, and thereupon by virtue of the said writ of
 the said Queen, of Capias utlegat. then directed to the said Sheriffs of M, and
 out of the said Court of the Lady the Queen here, the said sixth day of No-
 vember, Anno 21. abobeseid, at the prosecution of the aforesaid B issued, and
 retournable in the same Court from the day of Saint Martin, in fifteen dayes
 then next following the same I H, by the same T L under Sheriff of the said
 M B, and J H then Sheriffs of the County of Middlesex afterwards, to wit,
 the sixteenth day of Novem. Anno 21. abobeseid, at the said Parish of Saint
 Andrewes, in the said County of Middlesex was taken and arrested, and in
 the Queens Prison of Newgate within the said County of Middlesex, under
 the custody of the said Sheriff was detained, and this he is ready to verifie,
 and thereupon Judgment if the Plaintiff his Action, &c. The Plaintiff de-
 murs in Law, and the Defendant joynes in demurrer.

Appearance.

Imparance.

Continuan-
ces of the
plaints by im-
parance.Pleading of
the rule.Further im-
parance.

Attorney gave
 notice to the
 principall of
 the order
 made against
 him and his
 sureties, and
 that after no-
 tice neither
 principall, nor
 security, nor
 any other per-
 son before the
 said 8 of Mich.
 gave any in-
 structions to
 the Attorney
 to plead, and
 that the
 Plaintiff had
 Judgement by
 Nichill diuit,
 and that the
 Plaintiff in
 the Action
 was after-
 wards out-
 lawed, and
 taken in ex-
 ecution.
 Judgement by
 xi. die.
 Outlawry af-
 ter Judgment.

T 12. Eliz. Rot. 856. ff. he declares as before, for appearing without warrant, and judgment had by not informed, &c. & the said Defendant saith that no Action, &c. because he saith, that the said G long before the said third day of 1a. which said 3 d. day of 1a. the said L M his Originall Writ for the said debt of 100 l. against the said G obtained, to wit, the eight and twentieth day of December, Anno 10. above said, at A in the County of D retained the said R, to be Attorney for the said G in a certaine Plea of debt, upon demand of two hundred Marks, which said two hundred Marks the said L would have recovered of the said G by Bill, before the said Queene at Westminster, in Hillary Terme then next following, and the same G the same 28 day of December Anno 10 above said, at A above said, requested him the said R to appeare as Attorney for the said G, to all Writs, or all Actions which should be prosecuted against the said G, at the suit of any person or persons, whereupon the said R at the above said eight dayes of Saint Hillary appeared as Attorney for the said G, to the above said Writ, which the said L out of the same Court of Chancery, the above said third day of Ianuary, Anno, &c. obtained against the said G for the debt above said, and as Attorney of the said G, to the declaration of the said L above said, made and declared upon the said Writ against the said G in forme above said, and craved licence for the said G thereof to imparle untill the said fifteen dayes from Easter then next following, before which said fifteen dayes from Easter, to wit, the day and year above said, the same R at A above said, in the County above said, delivered to the same R a copy of the said Declaration upon the Writ above said, against the said G in forme above said declared, that the said G might informe the said R then being his Attorney, what answer the said R should make for the said G, to the said declaration of the said L, at the above said fifteen dayes of Easter, and the same R further saith, that the said G before the said fifteenth of Easter, or at the said fifteenth of Easter, or within fourteen dayes then next following, the said fifteenth of Easter, informed not the said R then being his Attorney, how, or what answer the said R should make for the said G, to the above said Action of the same L, whereby the same R for default of answer from the said G, to answer the said L being compelled by the peremptory rules of the Court of Common Bench of the said Lady the Queen now here, said that he was not informed by the said G his client, of any answer for the said G, to give unto the said L in his plaint above said, as it was lawfull for him to doe, and this, &c. And prayeth Judgement if Action, &c.

An Action upon the case against an Attorney for appearing for 1 S without warrant, the Defendant pleads that the Plaintiff requested him to appeare to those Actions, an that he did appeare, and gave him copies of the declarations, and that for want of instructions to plead, he said he was not informed.
M. 36. & 37. Eliz. Rot. 2073. Mich. 18. & 19. Eliz. Rot. 1684. Pa. 9. Jan. Rot. 311. Trespass upon the case against an Attorney for pleading a false Plea.

And the Plaintiff saith, that he ought not to be barred, &c. because he saith, that the said G did not retaine the said R to be the Attorney of the said G, in the above said Plea upon demand of two hundred marks, which the said L by Bill before the said Lady the Queen at West. above said in the said Term of Saint Hillary, would have obtained against him the said G, as the said R hath above alleadged, for Plea, the said G saith, that he requested not the said R, to appeare as the Attorney of the said G, to all Writs, and every Action that should be brought against the said G, at the suit of any person or persons, as the said R hath above alleadged: And this he is ready to verifie, &c.

The Plaintiff replies that he did not request, &c.

And the said R as formerly saith, that the said G requested him to appear as the Attorney of the said G to all Writs, & every Action which should be prosecuted against the said G, by any other person or persons as he hath above alleadged, and thereupon he putteth himselfe upon the Country, &c. Venire fac. retournable, Tres Trin. 12. &c.

Issue that was requested.

Recitall of
the Act of 13.
Eliz. aganst
Bankrupts,

T 15. Jac. Rot. 2241. Brownlow. London, ff. RC by W T, his Attorney
complaineth of R S Gent. one of the Attorneys, &c. being in the custody
of the Prison of the said Lord the King of Ludgate in the City of London,
present here in Court in his proper person for that, to wit, that whereas by
certain Act of Parliament, of the Lady Eliz. late Queen of England, pub-
lished at Westm. in the County of Midd. the second day of Aprill, in the
thirteenth yeare of her reign made and provided, it was enacted and estab-
lished by authority of the same Parliament, that if any Merchant, or o-
ther person using or exercising the trade of Merchandize, by way of bargain,
exchange, rechange, barter, chevance, or otherwise in grosse, or by retail,
or seeking of his or her trade of living, by buying and selling, and being a
Subject bozne of this Realme of England, or of any of the said late Queens
Dominions, or Denizen, after the first day of the same Parliament, had de-
parted at any time then, afterwards should depart the Realme, or should be-
gin to keep his or her Houses, or otherwise should absent himselfe, or herselfe,
should take sanctuary, or should suffer himself, or her self willingly to be arrest-
ed for any debt, or other thing not gotten, or due for monies delivered, Ware
sold, or any other just or lawfull cause, or good consideration, or purposes,
had suffered, or should suffer him, or her self to be out-lawed, or should yield him
or her self to prison, or depart from his or her dwelling house or houses, to the in-
tent or purpose to defraud or hinder any of his or her Creditors, being also a
Subject (born as is aforesaid) of the just debt or duty of such creditor, or creditors
as should be reputed, deemed, & taken for a bankrupt, & it is further enacted
by the Authority of the same Parliament, that the Lord Chancelor of Eng. &
Lord Keeper of the great Seal of England, for the time being upon every com-
plaint made to him in writing against any such person or persons, being a
Bankrupt as befoze is defined, shall have full power and authority, by com-
mission under the great Seale of England, to name, assigne, and appoint such
wise, and honest discreete persons, as to him should seem good, who for the
most part of them, by virtue of the said Act, and such commission shall have
full power and authority, to take by their discretions such order and direction
with the body or bodies of such persons, wheresoever he or they may be had,
either in his or their house or houses sanctuary, or elsewhere, as well by im-
prisonment of his or her body or bodies, as also with all his or her Lands, Te-
nements, Hereditaments, as well copy customary hold, as freehold which
he or they shall have in his or her own right, befoze he or they became Bank-
rupt, and also with all such Lands, Tenements, Hereditaments, as such per-
son shall have purchased, or obtained for money, or other recompence joynt-
ly with his Wife, Childzen, or Childe, to the only use of such offender, or
offenders, or of, or for such use, interest, right, title, as such offender, or of-
fenders then shall have in the same, which he or they might lawfully depart
withall, or which any person or persons of trust, to any secret use of such
offender, or offenders: And also with his or her Monies, Goods,
Chattells, Wares, Merchandizes, and Debts, wheresoever they may
be found or known, and cause the said Lands, Tenements, Fees,
Annuities, Offices, Goods, Chattells, Wares, Merchandizes, and Debts
to be searched, viewed, rented, and appraised to the best value they may, and
by deed indented, inrolled in one of the Queens High Courts of Record,
to make sale of the said Lands, Tenements, and Hereditaments, and of all
Deeds, Writings, and Evidences, touching only the same belonging to such
offender, or offenders, debtors or debtors, and also of all Fees, Annuities, Of-
fices, Goods, and Chattells, or otherwise to order the same for the true sa-
tisfaction and payment of the said creditors, that is to say, to every of the said
creditors, a portion, rate and rate like, according to the quantity of his or their
debts, and that every direction, order, bargain, sale, and other thing
done by the said persons so authorized, as is aforesaid, in forme
aforesaid.

aforesaid, shall be good and effectuell in the Law to all intents, con-
 structions, and purposes against the said offendor or offendors, debto-
 or debtors, his or their wife or wives, heire and heires, child and child-
 ren: And that such person and persons, as by such joynt purchase, with
 the said offendor or offendors as is aforesaid, had or should have any
 estate or interest in the premises, and against all other person and per-
 sons claiming by, from, or under such offendor or offendors, debto- or
 debtors, by any Act or Acts, had, made, or done after any such person should
 become Bankrupt as aforesaid: And also against the Lords of Man-
 ners, whereof the said copyhold or customary Lands shall be held,
 their heires, successors and assignes and every of them, as by the same
 Act made fully and manifestly appeareth: And also whereas, by a cer-
 taine Act of Parliament of the said Lord the King that now is, held
 at Westminster in the County of M. the nineteenth day of M. in the first
 yeare of his Reigne made and provided, reciting in the said Act, for that,
 that frauds and deceits, as a new disease, did dayly increase amongst such
 as liued by buying and selling, to the hinderance of traffique and mutuall
 commerce, to the generall hurt of the Realme, by such as wickedly and
 wilfully become Bankrupts, and for that the description of a Bankrupt
 in former Statutes was not so fully expressed, nor the power given
 thereby to the Commissioners for Bankrupts so large as was meete in
 such cases of deceit, to prevent the deceitfull actions of Bankrupts;
 for remedy whereof it is enacted by the said Lord the King that now
 is, and by the Lords spirituall and temporall, and the Commons
 at that same Parliament assembled, and by the authority of the same,
 that all and every such person and persons, using, or that should use
 the trade of Merchandizing, by way of bargaining, exchanging, bar-
 taring, chevifance, or otherwise in grosse, or by retail, or seeking
 his, her, or their trade of living, by buying and selling, and be-
 ing a Subject borne of this Realme of England, or any of the said
 Kings Dominions, or Denizen, who at any time sithence the first
 day of the same Parliament, or at any time afterwards, should de-
 part the Realme, or should begin to keep his, or her house or houses,
 or otherwise to absent him, or her selfe, or take Sanctuary, or suf-
 fer him, or her selfe willingly to be arrested for any debt, or other
 thing not grown, or due for money delivered, wares sold, or any
 other just or lawfull cause, or good consideration, or purposes, or
 hath, or should suffer him or her selfe to be Outlawed, or should
 yeild him or her selfe to Prison, or willingly or fraudulently, had,
 or should procure him or her selfe to be arrested, or his, or her Goods,
 or Chattels to be attached or sequestred, or depart from his or her
 dwelling House, or make, or cause to be made, any fraudulent Grant
 or Conveyance of his, her, or their Lands, Tenements, Goods, or
 Chattels, to the intent, or whereby his, her, or their Creditors, be-
 ing Subjects borne as aforesaid, should, or might be defeated, or de-
 layed, for the recovery of their just and true Debts. or being ar-
 rested for Debt, should after his, or her arrest lye in Prison six
 moneths or more upon that arrest, or upon any other arrest or detention,
 in Prison, should lye in Prison six moneths upon such arrest or detention,
 should be accounted and adjudged a Bankrupt, to all intents and
 purposes. And it is further enacted by the Authority of the same
 Parliament, that the like Commissions, Orders, Benefits, and
 Remedies, which were and be provided, and limited by the said
 former Act of Parliament, made in the thirteenth yeare
 of the reigne of the said Queene Elizabeth, against any

Recital of the
 Statute Anno.
 1. Ja. cap. 15.
 against
 Bankrupts.

Bankrupt therein described, or for, or concerning his, her, or their Lands, Tenements, Hereditaments, Fees, Annuities, Offices, Goods, Chattels, Wares, Merchandizes, and Debts, or any of them shall be pursued, taken, and expounded against such person or persons that are in the said Statute of the first yeare of the said King that now is, are expressed to be Bankrupts, his, her, and their Lands, Tenements, Hereditaments, Fees, Annuities, Offices, Goods, Chattels, Wares, Merchandizes, and Debts, in such like manner and form as the same ought or might have been, if the persons described to be Bankrupts in the Statute of the first yeare of the King that now is, had been described to have been Bankrupts, according to the intent of the said former Statute of Anno 13. Eliz. Reg. And it was further enacted by the authority of the same Parliament, that the said Commissioners might call before them, or the greater part of them, the said Bankrupt, and if upon lawfull warning left, or made in writing (at three severall times at the dwelling place, or house, where the said Bankrupt, his Wife or Family, for the most part of his abode, lodge, or remaine, and within one yeare next before he, shee, or they did become Bankrupts.

The said Bankrupt should not appeare before the said Commissioners, or the greater part of them, that then and from thenceforth it should be lawfull for the greater number of the said Commissioners to appear to proclaim the said party a Bankrupt at such publick place, or places, where the said Commissioners or the greater part of them should then meet, warning him, her, or them to appeare before them upon the said commission at some time appointed.

And that if upon five severall Proclamations made in some publick place, the party offending should not appeare before the said Commissioners, and yeild his, her, or their bodies to them, or some of them, the said Commissioners or the greater part of them, should or might then a Warrant to such fit person or persons as they should think meet, to apprehend the body and bodies of such offender or offenders, and to bring him, her, or them so offending before the said Commissioners, wheresoever the said partie or parties offending, sought to be found in place privileged, or not to be examined by the said Commissioners or the greater part of them, and that it should be lawfull for the said Commissioners or the greater part of them to examine the said offender or offenders, upon such Interrogatories touching the Lands, Tenements, Goods, and Chattells, Debts, Bills, Bonds, Books of Account, and any other things as may tend to disclose his, her, or their estate, and the secret Grants, Conveyances, and eloping of his, her, or their Lands, Tenements, Goods, Money, and Debts, as they shall think meet.

And that if therein the offender or offenders should refuse to be examined, or to answer fully to every Interrogatory to him to be ministered by the said Commissioners or the greater part of them, it should be lawfull for the said Commissioners, or the greater part of them to commit the said offenders to some strait, or close Imprisonment, to remaine there untill he, shee, or they, should better conforme him, or her, selfe: As by the said Act of the first yeare of the now King of England, among other things it fully appeareth.

And whereas also after the enacting of the aforesaid severall Acts, to wit the first day of March, Anno Dom. 1614. and long before, and continually afterwards, untill the twelfth day of August, An. Dom. 1615. one H. H. of the City of London Sale man, being borne a Subject of the

Kingdome

Kingdome of England, that is to say, at London in the Parish of Saint Mar. The Plaintiff
 tin within Ludgate, in the Ward of F, and there used and exercised the trade after the ma-
 of Merchandize by the way of bargaining, by which art of buying and sel- king of the
 ing he got his living, and the same H so there using and exercising the art of said Acts that
 Merchandize by way of bargaining, and getting his living by buying and he lived upon
 selling, the same H by the name of H L of London, Coke, the one and twenty the trade of
 eth day of May, Anno Dom. 1614. at London aforesaid, in the Parish and Merchandize,
 Ward aforesaid, by his certaine Will Obligatory, sealed with the Seal of and that he
 the said H, and shewen to the Court of the said Lord the King that now is, was indebted
 the date whereof is the day and yeare abovesaid, acknowledged himselfe to him, and
 to shew unto the said R C eight and fifty pounds and eight shillings, to be divers other
 paid to the said R C, his Executors, Administrators, or Assignes, when persons, and
 he should be thereof requested, the said H of fifteen pounds and four shil- became
 lings, part thereof to the said R C, afterwards satisfied; And also where, Bankrupt.
 as the said H being indebted unto the said R C in three and forty pounds The Bill
 four shillings, remainder of the said fifty eight pounds eight shillings, shewed in
 the same H using and exercising the said art of Merchandizing by way of Court, where-
 bargaining, and by the same art getting his living by buying and by the Bank-
 selling, the last day of July, Anno Reg. &c. 13. at London aforesaid, in rupt is in
 the Parish and Ward aforesaid, was likewise duly indebted to divers other debted to the
 persons, also Subjects bozne within the Kingdome of England; in divers Plaintiff.
 sums of monies hereafter mentioned, that is to say, to one I W in the
 sum of two and twenty pounds and ten shillings, and to one G D in the
 sum of eleven pounds six shillings, and to certaine R S and T A Partners;
 in the sum of four and twenty pounds twelve shillings, and to one P D in
 the sum of ninety eight shillings, to one J C in the sum of five pounds ele-
 ven shillings and six pence (and to divers others many sums of money)
 which said severall sums by him the said H, to the said I L, G D, J P, &c.
 so as aforesaid due, together with the aforesaid forty three pounds and four
 shillings to the said R C, in like manner due, in the whole doe amount
 unto two hundred seventy one pounds fifteen shillings and five pence, and
 the said H H to the same R C, and the said other persons; creditors of the said
 H H in the aforesaid severall sums of money being in forme aforesaid;
 indebted, the same H H the four and twentieth day of Aug. Anno, &c. 13.
 at London aforesaid, in the Parish and Ward aforesaid, so as aforesaid
 using and exercising the trade of Merchandize aforesaid, by way of bargain-
 ing and acquiring his living by buying and selling, began to keep his house
 situate there, to wit, at London in the Parish and Ward aforesaid, and af-
 terwards, to wit, the same twenty fourth day of Aug. Anno, &c. 13. above-
 said, departed from his dwelling house, and absented himselfe from it, to the
 intention to defraud and hinder the said R, and other Creditors aforesaid, Bankrupt ab-
 (being also Subjects bozne within the Kingdome of England) of their just sents himselfe.
 debts and duties aforesaid to them as aforesaid due and owing, and thereup-
 on the same H H then at London aforesaid, in the Parish and Ward aforesaid,
 manifestly became a Bankrupt, afterwards, to wit, the thirteenth day of
 October, Anno, &c. 13. at the Petition of the said E M, I H and P D, to the
 right honorable Thomas Lord Ellesmere, Lord Chancellor of England, at The Creditors
 Westminster in the County of Middlesex, exhibited and made for their reme- Petitioned to
 dies against the said H (then being a Bankrupt) in that behalfe to be had the Lord
 to the same E M, J H and P D, and other Creditors of the same H aforesaid, Chancellor of
 whose debts aforesaid to them respectively coming, then being unsatisfied, England for
 a certaine commission of the Kings upon the Statute against Bank- remedy.
 rupts made and provided; sealed with the great Seal of England,
 bearing date the same day and yeare was directed to I S Esquire, The commis-
 I G, N W Merchants, T A Cloathworker, and I B Merchant son awarded.
 Commissioners

Recitall of
the commis-
sion.

The Com-
missioners
cause, the
Bankrupt to
appear before
them to be
examined.

The Bank-
rupt refused
to be exami-
ned.

The Com-
missioners
commit the
Bankrupt to
the custody of
the Gaoler of
Ludgate.

The Bank-
rupt was found
by the Com-
missioners to
be really in-
debted to the
Plaintiff.

The greivance
of the

Plaintiff, that

the Defendant

or Plaintiff, the

Plaintiff not being

satisfied of his debt,

whereby the Bankrupt

enjoyed himself, and the

Plaintiff lost his debt.

Commissioners of the King in that behalf, by which said commission the said Lord the King gave full power and authority to the said Commissioners, four, or three of them, of whom the same I G, or I S to be one, according to the severall Statutes thereof, made and provided against Bankrupts, in the same commission mentioned, not only concerning the body of the said H H Bankrupt, his free Lands, and customary, his Goods, Debts, and other things whatsoever, but also concerning all other persons which shall offend by concealment of their claims, or other wise about the Premises, in any part thereof, against the intencion and meaning of the said Statutes, or any of them, and to doe, and execute according to the before mentioned Statutes or any of them, all thing and things whatsoever, as well towards, and for the satisfaction and payment of the said Creditors, as towards, and for all other intentions and purposes, according to the meaning of the said Statutes, by which commission the said Lord now King willed and gave in command to the said I S, I G, &c. four or three of them, of whom the said I S, or I G, should be two, to proceed to the executing and accomplishing the said commission of the said Lord the King, according to the true intencion and meaning of the said Statutes, or any of them, with all diligence and effect; As by the same commission more fully appeareth, and whereas the same R S the first day of August, Anno, &c. 13. and for divers years then last past, and also at the time wherein the said H H is aforesaid became Bankrupt, and continually afterwards, hitherto was, and yet is Keeper of the said Prison of the Lord the King at Ludgate aforesaid, by virtue of which commission and vigour of the Statutes aforesaid, three of the aforesaid Commissioners, to wit, the said I O, N W, caused the said H H to appear before them at London, in the Parish and Ward aforesaid, the seventeenth day of October, Anno, &c. 13. And then and there the said H H was requested by the said I G, N W and I B to be examined upon interrogatories, touching the Lands, Tenements, Goods, Debts, Bills, Bonds, Books of Account, and such other things as may tend to discover his estate, and secret Grants, Conveyances, and slaying of his Lands, Tenements, Goods, Monies, and Debts, and that the said H H then and there expressly refuseth to be examined, and upon the Premises, whereupon the said I G, N W and I B afterwards, to wit, the same seventeenth day of October, Anno, &c. 13. by their warrant committed him the aforesaid H, to the Kings Prison of Ludgate aforesaid, under the custody of the said R S then being Keeper of the said Prison, and the said R S so being Keeper of the Prison aforesaid, received him the said H H into his custody, and him then and there in Prison detained, and afterwards, to wit, the two and twentieth day of April, Anno, &c. 14. at London, aforesaid, in the Parish and Ward aforesaid, the said H H then and there being detained in Prison, under the custody of the said R S, by virtue of the Warrant aforesaid, it was proved before the said I S, I G and N W, by the testimony of faithfull men in that behalf examined, and by virtue of severall Acts of Parliament, and of the commission aforesaid in that behalf that the said H H was truly and justly indebted to the said R C in forty three pounds four shillings.

permitted the Bankrupt to escape out of Prison, without the consent of the Commissioners, and the Plaintiff, the Plaintiff not being satisfied of his debt, whereby the Bankrupt enjoyed himself, and the Plaintiff lost his debt.

Perverteth the said R S not ignorant of the Premises, not regarding the due executing of his office & Statutes aforesaid, but devising, & fraudulently intending him the said R C, in this behalf much to prejudice, & craftily and subtilly to deceive and defraud him of the said 43 l. & 4 s. afterwards, to wit, the seventh day of May, Anno, &c. 14. the aforesaid H H so being detained in and under the custody of the said R in the Prison aforesaid by reason of occasion

occasion of the Premises aforesaid, from and out of the custody of the said R S before the said H H had better conformed himself, without the licence of the said Commissioners, or any of them, or without the liberty and good will of the said R C permitted him voluntarily to escape and go at large, whither he would, the same R C of the aforesaid three and forty pounds four shillings, or of any penny thereof, being then unsatisfied, the same H H immediately after he had escaped and was suffered to go at large, with-held himself to places to the said R C unknown, and yet doth with-hold himself, by reason whereof the said R C wholly lost his said three and forty pounds four shillings, whereupon he saith he is the worse, and hath damage to the value of sixty pounds, and thereof prayeth remedy, &c.

The Plaintiff
damned.

Pledges to prosecute, I D, R R, &c.

Quere. If this Action (as it is brought) lies against the Defendant, because the Sheriffs of London for the time being are the Gaolers of Ludgate, and the Plaintiff ought to averre why he ought not to have his Action against them, and not against the inferiour Officer.

Quere.

M 4. Jac. It was held in the Common Bench by the opinion of the whole Court, that if upon the Statute of Bankrupt the Commissioners commit the Bankrupt to prison, in execution for debt due by him, that he cannot be set at liberty until the debts are satisfied: But if the Commissioners commit him by their Warrant under their hands there to remain so long as they please, there they may set him at liberty at their pleasures.

And then a Warrant was shewen to the Court, that the Commissioners having committed one to the Fleet, there to remain until he answer and satisfy them in such things as shall be objected against him by the said Commissioners by force of the Statutes of 13. Eliz. Cap. 7. and 1. Jac. Cap. 15. and thereupon it was held, that notwithstanding the Warrant the Commissioners have power to release him in such manner as they shall see fitting for the Statute is executed as they shall order. And therefore it appears by their resolution, that whereas one is committed in execution generally by such Commissioners, that he is in execution by the Statute, and there an escape lieth against the Gaoler if he suffer him to escape.

T 15. Jac. rot. 559. K against M, an Action upon the Case, that whereas the said M such a day and year at C, in consideration that the said K at the special instance and request of the Defendant, had delivered to M the care of the Plaintiff, to plow and till certain Lands of the Defendant in R for two dayes then next following, upon himself to the said M faithfully promised and assumed, that he the said Defendant would deliver the said care to the Plaintiff after the end of the said two dayes safe and sound, after request the said M intending, &c. the said K greatly to prejudice the said care by the aforesaid two dayes so excessively and inordinately laboured and wearied, that by the excessive labouring, the aforesaid care died, to the damage, &c.

An Action upon the Case brought for vehement working of a Mare by reason whereof she dyed.

The Defendant pleads, that he died of divers infirmities, without that, that he laboured the said care so excessively, &c. and issue was joyned thereupon, and afterwards a verdict.

The Defendant pleads that she dyed of divers infirmities, without that, that he so excessively laboured, &c.

And it was moved in arrest of judgment, that the Declaration was insufficient, because no place was laid in the Declaration where the Defendant laboured the said care, which was the principal matter in issue, and thereupon judgment was arrested.

M 15. Jac.

T 16. Jac. rot. 805. Brownlow. Between Y and D, Surr. ff. And whereupon the said Plaintiff complaineth, that the said W Y the thirtieth day of April, Anno 16. at L had delivered to the Defendant a certain Gelding of the said Plaintiff, to ride from the Town of L in the County of S unto

Trespass upon the Case for inordinately loading and riding a horse so as he died.

B in

B B in the County of S, the said Defendant so greivously loaded the said Selving, and him so fast and inordinately the said thirtieth day of April, Anno 16, above said, to L aforesaid did ride, that the said Selving, price ten pounds, by such loading and riding died, to the damage of the said Plaintiff of forty pounds, &c. Register 106. in the title of trespass.

Trespasse upon the Case brought by the Free-holder of a Ferry for carrying of passengers over the water for moneys, &c. in his Ferry boat, against I S, for carrying of passengers, &c. to the damage of the Plaintiff. Declaration.

P 17. H 8. rot. 524. Som. ss. T L, &c. was attached to answer R Abbot of the Monastery of Saint A in B of a Plea of Trespasse upon the Case, &c. And whereupon the said A by H I his Attorney complaineth, that whereas the said A was seised of a certain Ferry place at B in his Demesne as of fee in right of his Monastery, aforesaid, to fetch and carry any Subjects of the Kings, and their Horses, and all other necessaries whatsoever, beyond the said Ferry place and the water there called Avon water in his own Ferry boat, taking of every person for his passage one farthing, and for every horse one farthing, and for all other necessaries whatsoever, according to the quantity of them.

Nevertheless the said T the twelfth day of Sept. Anno 16. minding him the said A much to hurt and hinder in his said passage, many persons, that is to say, N B, L T, &c. beyond the said water at B aforesaid fetched and carried in his own Ferry boat, by reason whereof the said A is much damaged and prejudiced, to the damage of the said A of forty pounds: And thereupon he bringeth Suit, &c.

Extortion made by a Sheriff in receiving extraordinary fees for executing Writs.

P 29. Eliz. rot. 1864. ff. An Action upon the Case brought by the party upon the Statute of the twenty eighth year Eliz. (that the Sheriff ought to take but twelve pence in the pound for an execution upon the Statute, and for every twenty pounds, where the sum exceeds not one hundred pounds. And for that the under Sheriff took of the Plaintiff for executing of a Writ of twenty pounds, to wit, twelve pence for every twenty Shillings of the aforesaid four hundred pounds, to the great damage of the Plaintiff.

And note, there this form of pleading, which said four hundred pounds to the said Plaintiff at the feast aforesaid were not paid, by which the said Lady the Queen, upon the due certifying and demonstrating of the said writing in form aforesaid, acknowledged in Chancery of the said Lady the Queen made, to wit, such a day and year at the prosecution, &c.

Freeholder of ten acres of Land brings his Action upon the Case against another Freeholder of two

T 16. Jac. rot. 3042. Brownlow. ff. Between R H Plaintiff, and W G Defendant, Staff. ss. And whereupon the said R by W W his Attorney complaineth, that whereas the same R the first day of October, Anno, &c. 15. was seised, and yet is seised of ten acres of arable Land, with the appurtenances, in B and R in the County aforesaid, in his Demesne as of fee, lying and being in a certain field called the N.

acres of Land next adjoining to the said ten acres, that the Defendant ought to inclose the two acres against the ten acres, by prescription, and for that the said two acres ly open, whereby the Cattel of the Defendant entered in the said ten acres of the Plaintiff, &c.

And whereas the said W G was and yet is seised of two acres of Land neer adjoining to the said ten acres of arable Land of the said R in R aforesaid in his Demesne as of fee, the said W, and all those whose estate the said W hath in the aforesaid two acres of Land of the said W, from the time whereof the memory of man is not to the contrary, have used and accustomed to inclose and fence the said two acres of Land, with the appurtenances, with sufficient

T. Eliz. rot. 1441. and M 37. and 38. Eliz. rot. 1418. the like Action by lessee for

years. Prescription that the Defendant and those whose estate &c. ought to inclose.

erient hedging and ditching against the said Feild called the N, so that none having and occupying the said ten acres of arable Land, by the Castell coming out of the said two acres of Land, and into the aforesaid field called the N, for default of inclosure of the aforesaid two acres of Land, should receive any damage, hinderance or losse.

Notwithstanding the said W hath so negligently and insufficiently kept the said hedges and fences of the said two acres of Land against the said field called N, permitting the said hedges and fences to be out of repair and so lie open, that other mens Cattell depasturing upon the sayd two acres of Land aforesaid, for default of sufficient inclosure of the aforesaid two acres of Land against the aforesaid field called N, have gone out of the sayd two acres of Land into the aforesaid Close called the N, and so into the sayd ten acres of Land of the sayd R lying in the sayd field, depasturing, treading downe, and consuming of the Grasse and Corne of the sayd R therein growing and being, so that the sayd R the profit of the aforesaid ten acres of Land by a great time, to wit, from such a day, &c. unto such a day, &c. lost, to the damage of the sayd R of twenty pounds, and thereupon hee bringeth suit, &c.

Damage.

M ich. 4. Jac. rot. 604. London fl. E K, &c. Knight, and I his Wife, were attached to answer E P of a Plea, that whereas one L B in his life time being a Citizen and Free-man of the City of London, 9. Aug. Anno Reg. &c. 38. at London had made his last Will in writing, and by the said Will, amongst other things had given and bestowed the third part of all his Goods, Chattels, and debts to him belonging, to be disposed by the custom of the City of London aforesaid, to one M B his Daughter three hundred pounds to be paid to the said M at her age of eighteen years, or at the day of her marriage, which of them should first happen, and appointed and ordained the aforesaid I his then Wife to be Executrix of his said Will, and afterwards, to wit, the 29. of September, Anno 38. aforesaid, the said L then being a Citizen and Free-man of the aforesaid City there died, possessed of divers Goods and Chattels of his own, and debts due to him, to the value of seven thousand pounds and more, besides Goods and Chattels sufficient to satisfy all his debts which he owed at the time of his death, and all necessaries to be expended about his funeral and burial, the same M then being of seventeen years of age and no more, and not advanced by the said L in his life time, and then being one of the Orphans of the said L by reason of her minority.

Case upon an assumption to pay money in consideration of a marriage, the same being an Orphan, that if her portion were not 100 l he would make it an 100 l.

And also whereas within the City aforesaid is held, &c. and was held a custom, that if any person, being a Citizen and Free-man of the City aforesaid, should die possessed of Goods, Chattels, and Debts due to him, amounting to a greater sum then the debts that he owed, and necessary expences to be laid out in and about his funeral and burial, then every such person having Child or Children, being within the age of twenty one years, and his Wife which should survive him, that then the Child or Children of such Citizen and Free-man of the said City, being within age, and surviving, and before in his life time not being by him advanced, had and have, and by the whole time aforesaid he and they were accustomed to have the third part of all such Goods, Debts, and Chattels, whereof such Free-man so died possessed, besides the Goods, Chattels, and Debts, sufficient to pay his Debts owing by him at the time of his death, and necessary expences about his funeral and burial, as the said Goods and Chattels, whereof he should die possessed, should happen

Custom of London, that if any Free-man of London die possessed of Goods, Debts, and Chattels, farre greater then his debts and funeral

expences, and have Children surviving under the age of twenty one years, and not promoted by the father in his life time, they ought to have a third part of such Goods, Chattels, and Debts, whereof such Citizen died seised, besides his debts and funerals, as shall appear by Inventory to be exhibited by the Executor of such Goods, &c. before the Mayor and Aldermen of London in the Orphans Court, according to the custom of the City of London.

In 19 Eliz. 1447. such an Action is brought and grounded upon such a custom between Sares and Kitchen.

to appear to be of greater or lesser value, as by the Inventory of the same Goods and Chattels in the Court before the Mayor and Aldermen of the City for time being in the Chamber at Guild hall of the City aforesaid being commonly called the Orphans Court, by the Executor or Executors of the last Will and Testament of such Citizen and Free-man of the City aforesaid, to be exhibited, by force of which custom it belongeth to the aforesaid M one of the Orphans of the said L, after the death of the said L, according to the said custom, to have the greater part of the Goods, Chattels, and Debts which were of the said L at the time of his death, and the said 300. pounds bequeathed to the said M by the Will aforesaid, as is aforesaid, as they should appear to be in the whole, or are worth by the Inventory of them before the then Mayor and Aldermen of the City aforesaid, to be exhibited in the Chamber at Guild hall of the City aforesaid, called the Orphans Court, to be held according to the custom of the City aforesaid.

The Executrix proves the Will.

And whereas also after the death of the said L the said Judeth at London aforesaid took upon her the burthen of the execution of the said Will of the said L.

Conference between the Plaintiff and the Mother of the Defendant whilst she was sole, concerning a marriage to be had between the Plaintiff & the daughter of the Defendant.

And also whereas afterwards, to wit, the first day of July, Anno Dom. 1597. and by the space of six moneths then last past at L aforesaid a certain conference was had and moved between the said C and the said J, while he was sole of and concerning a certain marriage between him the said E, and the aforesaid M B, Daughter of the said J and of the said L B then dead, and late Husband of the said J, and Father of the said M, to be had and solemnized, the same M then one of the Children and Orphans of the said L, and being within the age of one and twenty years, and was not then, or at any time afterwards before married, or by the said L in his life time any whit promoted, the said I while he was sole, afterwards, to wit, the same first day of July, Anno Dom. 1597. aforesaid, at London aforesaid, in consideration that the said E, at the special instance and request of the said J would take to Wife the said M, and would hasten the said Marriage to be had and solemnized between him the said E and the said M upon her self did assume, and to the said E then and there faithfully promise, that if it should appear by the Will of the said L before that time made, and by the Inventory of the Goods, and Chattels, and Debts which were of the said L at the time of his death, by the said J in the aforesaid Court, before the Mayor and Aldermen of the City of London, to be held in the Chamber at Guild-hall, in the City aforesaid, commonly called the Orphans Court, exhibited, that the portion of the said M, which belonged to her at the time of the exhibiting of the said Inventory, by reason of the said Will, according to the custom of the City aforesaid, of the Goods, Debts and chattels of a good estate of the said L, would not amount unto a thousand pounds, then the said I would pay unto the said E to his own use, after the marriage aforesaid had, so much moneys as should make the said portion of the said M to amount unto a thousand pounds.

The consideration executed.

And the said E in fact saith, that he having trust to the promise and assumption of the said I aforesaid, after the said promise and assumption in form aforesaid made, at the instance of the said I, did hasten the aforesaid marriage between the said E and the said M to be had and solemnized, and by occasion thereof afterwards, to wit, the ninth day of June, Anno Dom. 1597. aforesaid at London aforesaid, took to Wife the said M, and the said marriage between him the said E and the said M, after the said promise and assumption was then hastened and solemnized.

And the said E further in fact saith, that before the promise and assumption aforesaid, as aforesaid, was made, to wit, the one and twentieth day of April, Anno Dom. 1597. aforesaid, at London aforesaid, a certain Inventory of the Goods, Debts, and Chattels which were of the said L at the time

one of his death, into the Court before H B then Mayor, and A B, C D, &c. then Aldermen of the City aforesaid, in the Chamber at Guild-hall in the City aforesaid, according to the custom of the said City then held, was exhibited by the said I, as Executrix of the Will of the said L, and then it appeared by the Will aforesaid so made, and by the Inventory aforesaid so exhibited, that the portion of the said M in goods, Debts, and chattels aforesaid, which then appertained to the said M to have, by reason of the Will aforesaid, and known aforesaid of the good estate of the said L, did amount unto six hundred and forty pounds and no more.

And the said I afterwards whilst she was sole paid to the said E one hundred eighty five pounds of lawful money of England, in part of performance of her promise and assumption aforesaid. And afterwards the said I at L aforesaid took to her Husband the said E.

Payment of part confessed in the Count.

Nevertheless the said I whilst she was sole, and the said E and I after marriages between the said E and I celebrated, little regarding the promise and assumption of the said I, but endeavouring and fraudulently intending, the said E in this behalf craftily to deceive and defraud, to the said E after marriage aforesaid, in form aforesaid, had one hundred seventy five pounds, being the remainder of so much money as would make the aforesaid portion, which appertaineth to the said M to have of the Goods, Debts, and chattels which were of the said L at the time of his death, of a good estate of the said L by Will and Inventory aforesaid exhibited, appearing to arise to one thousand pound, as yet have not paid, nor either of them hath paid, according to the promise and assumption of the said I aforesaid (although the said I after the marriage between the said E and M had, to wit, the fifteenth day of June, Anno Dom. 1597. abovesaid, hereunto, at London aforesaid by the said E was requested, but the one hundred seventy five pounds to pay unto the said E have altogether refused, and yet refuse, to the damage of the said E of five hundred Marks, &c.

Breach of promise.

The Defendant pleaded that she did not assume, and judgment for the Plaintiff, and damages to two hundred pounds.

Special request of the Wife of the Defendant whilst she was sole.

M 3 Jac. rot. 552. Brownlow. Surr. G. T. K. Knight, otherwise R, one of the Purchvants at Armes, &c. was attached to answer W P Esquire Herald at Armes of Trespasse upon the Case. And whereupon the said W P by A L his Attorney complaineth, wherefore, whereas there is, and from the time, whereof the memory of man is not to the contrary, there was, within the Kingdom of England a certain Office of Heraldry at Armes, commonly called the Office of Chester Herald, for execution of which said Office, the Heralds of that Office have had and received for the time being, and for the whole time abovesaid, divers, Fees, Salaries, Profits, and Emoluments, as parcel of that Office,

An Action upon the Case brought by an Herald at Armes against a Purchvane at Armes, for disturbing in the exercise of his said Office and receiving his fees,

And whereas also from the whole time aforesaid, whensoever it should happen the said Office to be void, the said Office, together with all Fees, Salaries, Profits, Emoluments, and Commodity whatsoever, belonging and appertaining to the same, were given and granted by the Kings Majesty that now is, and his Progenitors, Kings of England, to any person willing to take that Office. And also for that that the said Office was void by the death of I T last Officer of that Office, the said Kings Majesty that now is by his Letters Patents, sealed with the Great Seal of England, bearing date at Westminster in the County of Middlesex the seventh day of July, in the first year of his reign over England, France, and Ireland, and over Scotland the six and thirtieth, the said Office being then void, of the special grace of the said Lord the King, and of his certain knowledge and mere motion, and also in consideration of the good, true and faithful service which the said William in former time had done to the said Lord the King,

Recital of the Kings Letters Patents.

and during his life intended to do, made, nominated, created, advanced, and invested the said W one of the Heralds at Armes of the said Lord the King, and to the said W (that name vulgarly called Chester) imposed.

Second clause. And also by his said Letters Patents gave and granted to the said W name, stile, title, liberties and preheminences aforesaid unto the said W otherwise Chester, during his life: And also all commodities, profits, advantages, preheminences, and emoluments to the said Office due and accustomed, in as ample manner and form as any one or any others of the Heralds of the said Lord the King had and received, or have had and received by the exercises of that office, as by the said Letters Patents more fully appeareth.

And also whereas the said William continually after the making of the said Letters Patents indaboured, according to his power, to exercise the said Office, and to receive the fees belonging to the said Office.

The Plaintiffs grievance. Notwithstanding the said T sufficiently knowing the premises, endeavouring and intending him the said W in his Office, and of the profit, commodity, and emolument of the same Office to the said W in form aforesaid given, and granted, wholly to deprive, exclude, and hinder, and from the said receipt of the profits belonging to the said Office, and to deprive and keep the seven and twentieth day of March, Anno, &c. of England, France, Ireland the second, & of Scotland the thirty seventh, at Craydon in the County of Surry, the said W being then Chester Herald at Armes, and then and there duly attending the execution of the said Office, he the said T then and there unlawfully hindered him from executing his said Office, and then and there assumed the said Office of the said W upon him unjustly, and against the will and liking of the said W, and then and there that Office as Chester Herald of Armes, about the funerals of John, by Divine Providence, Archbishop of Canterbury, over all England Primate and Metropolitane, exercising & also fourteen pounds of lawful money of England for fees for black cloth about the Hearse, and other necessities incident to the said funeral, to the said W, by reason and right of his Office aforesaid, then due and belonging of one W S Esquire, then being King of Armes, against the will of the said W P, otherwise Chester, then and there as Chester Herald at Armes gathered and received.

Second disturbance in exercise of his Office for taking fees upon the creation of a Baron of the Realm. And also the said T the sixth day of October, Anno, &c. of England, France, & Ireland the second, & of Scotland the thirty eighth, at C aforesaid, the aforesaid Office of the said W there unlawfully exercising, eleven shillings for the fees of the said W P, belonging to his said Office then due to the said W, by reason of his said Office, about the creation of H H Baron of M of the said W S, then and there as Chester Herald at Armes, against the will of the said W P, otherwise Chester, gathered and received.

Third Disturbance in exercise of his Office for taking of fees upon creation of an Earl. And also the eighth day of October, Anno 2. and 38. abovesaid, at C aforesaid, unlawfully exercising the said Office of the said W P, sixteen shillings for the fees of the said W P, belonging to his said Office, about the creation of R C Earl of C, due to the said W P by reason and right of his Office aforesaid of the said W S, as Chester Herald at Armes, against the will of the said W P, otherwise Chester, then and there gathered and received, to the damage of the said W P, otherwise Chester, of forty pounds, and thereof he bringeth suite, &c.

Special Demurrer to the Declaration.

Causes of Demurrer.

As the said T K by I H his Attorney, &c. and saith, that the Declaration aforesaid, in manner and form aforesaid declared, and the matter therein contained, are insufficient in law to maintain the said W P to have his said Action against the said T K in this, that is to say, that the said W P sheweth not by his said Declaration that C Herald is an office which by the martial Law of this Kingdom of Engl. and in the right of his Office hath any place to bury the

the said Archbishop, whereby the Court may take notice of the place of the said W, as by the Law of the Land he ought to have shewn. And also in this that the said W doth not shew by his Declaration aforesaid, that the said W was created, swozn and invested in the Office of Chief Herald at Armes by the Earl Marshal of England, as he ought to have done. And also in this, that whereas the said W declared against the said T, that the same T received fees of one W S King of Armes, he sheweth not in certain of which of the Kings of Armes he received the aforesaid fees, because there are and from the time whereof the memory of man is not to the contrary, there were three several Kings of Armes, called or known by three several names of dignity, that is to say, Garter the principal King of Armes, Clarence the second King of Armes, and Norway the third King of Armes, which said Garter principal King of Armes hath the general jurisdiction throughout all England about the Generals of Archbishops, Dukes, Marqueses, Earles, Viscounts, Barons, and Knights of the Order of the Garter. Clarence and Norway their Provinces are divided, whereof belongeth unto Clarence all England lying upon the South part of the River of Trent: And to Norway doth belong all England and on the North part of the River of Trent. And also in this, that the said W doth not shew by his Declaration what place he ought to have by his Office at the creation of Earl, Viscount, or Baron, as by the Law of the Land he is held to answer: And this he is ready to verifie, whereupon for defect of sufficient Declaration in this behalf the said T prayeth judgment, and that the said W from having his said Action against him thereof may be barred, &c.

The Plaintiff joyns in demurrer.

H4. Jac. rot. 1858. Brownlow. ff. Otherwise as it appeareth in Mich. Term last past, rot. 1441. It is thus contained, D ff. C N Clerk was attached by Writ of Privilege of the Lord the King, issuing out of the Court here, to answer T B Gent. one of the Attorneys of the Court of common Bench of the said Lord the King, according to the Liberties and Privileges of the same Court for such Attorneys and other Ministers of the same Bench, from the time whereof the memory of man is not to the contrary, used and approved of in the same, of a Plea of Trespasse upon the case, &c.

An Action upon the Case brought for fees due to a Solicitor for soliciting a Suite in Chancery and a Suit at Common Law upon Court.

on the promise of his Client. T 19. Jac. rot. 912. prescription for his privilege.

And whereupon the said T in his own person complaineth, that whereas the said C, the tenth day of Jan. An. &c. 2. at T, in consideration that the same T at the special instance & request of the said C would prosecute out of the Court of the said Lord the King here, a certain Writ of Privilege of the said Lord the King, in the name of the said C, to be directed to the Mayor and Burgeses of Plymouth, returnable before the Justices of the said Lord the King in the common Bench, to have the body of the said C, being lately before taken and arrested within the jurisdiction of the Court of the said Lord the King, of his said Burrough of P aforesaid, by virtue of a certain Plaint against him in the same Court of the said Lord the King of his Burrough, before the then Mayor and Burgeses of Plymouth aforesaid levied, together with the day and cause of taking and detaining of the said C before the said Justices of the said Lord the King in the same Bench, at the day of the return of the same Writ: And also in consideration that the same T would prosecute for the same C out of the Court of Chancery of the said Lord the King at Westminster in the County of Middlesex, then being, a certain Writ of the said Lord the King of Subpoena, in the name of the said

First Consideration ex-cutory. Plaintiff pleads a Suite levied in an inferior Court.

Second Consideration ex-cutory.

Assumption to
pay the Plain-
tiff his fees, be-
sides his ex-
pences in the
suits aforesaid

Execution of
the first con-
sideration-

Execution of
the second
consideration.

payment of
fees to one of
the Justices of
the Common
Bench plead-
ed.

Breach of pro-
mise.

said C against P A and F his Wife, returnable in the same Court of Chan-
cery, and would exhibit a certain Bill of complaint upon the same Writ of
Subpoena for the said C against the said P and F his Wife in the same Court of
Chancery, and would prosecute the same suit upon the same Bill for the said C
against the said P and F his Wife in the same Court of Chancery, upon him-
self did assume, and to the said T B then and there faithfully promise, that he
would pay to the said T B for his labour in and about the prosecution of the
said Writ of Privilege three shillings four pence, And for his labour in
every Term, wherein the same T should prosecute the aforesaid Bill of Com-
plaint for the said C in the aforesaid Court of Chancery three shillings four
pence, besides costs and expences to be laid out in and about the prosecution of
the said Writs, and of the said Suit upon the Bill aforesaid, when he should be
thereof required.

And the said T in fact saith, that he at the instance and request of the said C
aforesaid, afterwards, to wit, in Hillary Term, Anno, &c. 2. aforesaid, pro-
secuted the said Writ of Privilege for the said C out of the said Court of the
said Lord the King of the common Bench here, to wit, at Westmin. aforesaid:
And afterwards, to wit, in Easter Term then next following, prosecuted the
said Writ of the said Lord the King of Subpoena out of the same Court of
Chancery of the said Lord the King here, to wit, at Westmin. aforesaid.

And the same T likewise at the instance and request of the said C aforesaid
afterwards, to wit, in Trinity Term, Anno, &c. 3. exhibited the said Bill of
complaint for the same C against the said P and F in the aforesaid Court of
Chancery of the said Lord the King at Westmin. aforesaid then being; and
prosecuted the suit upon the said Bill for the said C against the same P and F in
the same Court of Chancery in the same Term of the holy Trinity, and by
four Terms then next following. And the same T seven and twenty shil-
lings one penny in costs and expences in the aforesaid several Terms a-
bove specified, in and about the prosecution of the said two several Writs, and
of the Suit upon the Bill aforesaid, to divers Officers, Clerks, and Ministers
of the said Court of Chancery of the said Lord the King, and in the Court of
the said Lord the King of common Bench, and also to P W Knight, then one
of the Justices of the said Lord the King of the Bench aforesaid, laid out and
paid, which said eight and twenty shillings one penny, together with three and
twenty shillings four pence for prosecuting the said Writ of Privilege and
Writ of Subpoena, and of the said Suite upon the said Bill, to the said T for
his labour aforesaid in this behalf, by him the said T in the aforesaid several
Courts of the said Lord the King prosecuted as aforesaid, according to the
promise and assumption of the said C are due and payable, in the whole a-
mounting to fifty shillings five pence.

Nevertheless the same C his promise and assumption aforesaid not regard-
ing, but minding and intending the said T of the same fifty shillings and five
pence to deceive and defraud, the said fifty shillings and five pence, or any
penny thereof to the said T, according to his promise and assumption aforesaid
to the said T B in form aforesaid made hath not paid, although hereunto the
said C the last day of October, Anno, &c. 4. at T aforesaid by the said T was
often requested, but the same to him to pay hath refused, and yet refuseth, to
the damage of the said T of forty pounds. And thereupon he bringeth suit,
&c.

Pledges to prosecute, J D, R R, &c.

Protestation.
The Defend.
pleads in bar,
that after the
suits, and his expences, &c.

AND the said C by, &c. And saith, that no Action, &c. because by pro-
testation that he knoweth not any thing to be true in the Declaration

that after the promise made he paid to the Defendant all such sums of money laid out about the said
suits, and his expences, &c.

aforesaid

aforesaid, above specified; for Plea he saith, that he after the promise and assumption aforesaid, above supposed to be made, to wit, the tenth day of August, Anno, &c. 4. at T aforesaid, paid to the said T all and every sums of money layd out, and paid by the same T, in and about the prosecution of the aforesaid Writs, and Suit upon the said Will, and to the said T for his labour in that behalfe growing due, according to the forme and effect of his promise and assumption aforesaid; and this he is ready to verifie, whereupon he prayeth Judgement, &c.

And the said T saith, that he ought not to be barred, &c. because he saith, that the said C hath not paid to the said T all and every sums of money laid out, and paid in and about the prosecution of the said Writs, and the aforesaid Suit upon the said Will, and to the said T for his labour in that behalfe growing due, as the said C hath above alleadged; And this he prayeth may be inquired of by the Country, and the said C likewise, therefore, &c. Replication that the Defendant did not pay, &c.

M 39. Eliz. Rot. 1504 London, s. H M late of London Leatherseller, was attached to answer T P of a Plea, that whereas the said T the twentieth day of June Anno Reg. &c. 37. and continually from thence, until the day of obtaining the Originall Writ of the said Plaintiff, was possessed, and yet is possessed of one messuage situate, and being in London, to wit, in the Parish of Saint G, in the Ward of C, for terme of divers years yet to come, and whereas the said South and West parts of the same messuage were so low built by the whole time aforesaid, and yet are that they could not, nor can not sufficiently serve the said Plaintiff for his necessary uses; by reason whereof the said Plaintiff, the said South and West parts of the said messuage, the said twentieth day of June Anno 37. above, said, and continually from thence, until the day of obtaining of the Originall Writ, intended to repair and build higher, thereby to receive better use, profit, and occupation thereof. Action upon the case for building a house higher, which incroached upon the messuage of the Plaintiff, and stopped his light.

And also whereas the said H by the whole time aforesaid was possessed, and yet is possessed for terme of divers yeares; yet to come of and in one of other messuage lying, and being in the Parish and Ward aforesaid, next, and near adjoyning to the said messuage of the said Plaintiff, on the West part thereof.

And the said H being so thereof possessed, maliciously and wickedly intending to hinder the said T, in the repairing and building higher on the South and West parts of the messuage of the said T, the twentieth day of July, An. &c. 37. abovesaid, at London aforesaid, in the Parish and Ward aforesaid, new built the aforesaid messuage of the said H, and in the same new building a certaine house or structure containing in length one roode and two inches, and in breadth five foot without the said messuage of the said H, directly upon the said South and West parts of the said T, hath builded, & caused to hang over, by reason of which re-building, and incroachment aforesaid, the said T cannot repair nor build higher the said South and West parts of his said messuage, but the whole profit and benefit which he might have received by reason of the reparation and building higher of them, from the time of the re-building and incroachment aforesaid hitherto hath lost, and also divers lights of the said messuage of the said T, being on the West part of the said messuage of the said T, by the incroachment aforesaid, are wholly stopped up, to the Damage of the Plaintiff of forty pounds, and thereupon he bringeth Suit, &c. Damage of the Plaintiff.

An Action upon the case upon deceit, for that the Defendant being Attorney of IS against the Plaintiffs Executors, &c. in debt upon an obligation, with condition to performe Covenants, without their warrant, enters an imparlance without the condition, whereby they could not plead conditions performed, where the Covenants were performed by name, by which judgment by *nil. dic.* was given against the Plaintiffs. Appearance by *Superfedeas* because uncircumspectly. 14. H. 7. Pl. 5. *Frowick* saith, that this Action lyeth well, &c. Declares in debt upon an obligation with condition to performe Covenants in an Indenture against Executors. Averment that the Testator or Executors performed the Covenants, &c. The Deceit. Prayes a general Imparlance.

H40. Eliz. Rot. 1901. Brownlow. Otherwise as it appeareth, M 39. & 40. Eliz. it is thus contained, Be it remembered, &c. Midd. ff. I T Esquire, F B Esquire, and E G Esquire, by F E their Attorneys complain of T C one of the Attorneys, &c. here present here in Court, in his proper person, for that that whereas B C and M his wife Administratrix of the Goods and Chattels which were of A C, who, &c. at another time, to wit, the seventeenth day of September, Anno Reg. 38. prosecuted out of the Court of Chancery of the Queens Majesty, at Westm. in the County of Midd. then being, a certaine Originall Writ of the said Lady the Queen of a debt of one hundred Marks against the same I T, F B and E G, by the names of J T late of, &c. Esquire, F B late of, &c. Esquire, E G late of, &c. Esquire, Executors of the Will of A T, &c. directed to the Sheriffs of London, by which Writ, &c. (reciting the proceedings to the Exigent) returnable from Easter day in one moneth, at which said moneth from Easter before the said E A Knight and his Associates, then Justices of the said Lady the Queen of the Common Bench, come as well the aforesaid B and M, by the said T C then their Attorneys, as the same I F and E, by one F E then their Attorneys, by Writ of the said Queen of Superfedeas, because the said Writ of Exigent, uncircumspectly issued out of the Court here, directed to the then Sheriffs of London, and fixed to the said Writ of Exigent, whereupon on the said B and M then declaring against the said I F and E, said upon their said Writ, that whereas, &c. declaring upon the Bond, the seventeenth of January, 9. Reg. with the condition, which was to performe Covenants in an Indenture, in full strength and virtue, and the said J F and E say further, that although the said A T in his life time, and the Executors after the death of the said A, have well and truly observed, performed, fulfilled, and kept all and singular Covenants, Grants, Articles, Clauses, Sentences, and Agreements in the Indenture aforesaid, above specified, on the parts of the same A and K to be observed, performed, fulfilled and kept according to the forme and effect of the said Indenture, and the said Executors by the counsell and advice of learned Counsell in Law of the said Defendant, to the said Indenture and performance of all and singular Covenants, Grants, Articles, Clauses, Sentences, and Agreements, in the same Indenture specified and contained in due forme of Law, for the defence of the said Executors, in the Action aforesaid, against them for the cause aforesaid, in forme aforesaid obtained, then and there purposed and intended to plead.

Nevertheless the said T C not ignorant of the Premises, but minding, and fraudulently intending the same I F and E, altogether to exclude and defraud from their true and just defence in the Premises aforesaid, and from the benefit of pleading to the indorsement of the said writing: And to bring the said I F, B and E, into molestation, damage, and prejudice, afterwards, to wit, in Easter Terme then being Attorneys of the said B and M, in the cause aforesaid, the said Declaration by the said B and M against the said I F, B & E, in forme aforesaid made and declared, caused to be entred upon Record in the same Court, and then and there in the same Record, in the names of them the said I F, B and E, in the name of the same F E, as Attorneys for the same I F, B and E, without the command, warrant, licence, or notice of the said I F, B & E, & F E or of any one of them fraudulently and deceitfully desired for the said I F, B & E, licence thereof to imparle in the said Court, to the Declaration of the said B and M here, untill the morrow of the Holy Trinity then next following, which by the said Court, was then and there granted him, and the same day was then and there given to the said B and M here, &c. and the said imparlance likewise, fraudulently and deceitfully caused to be entred upon Record in the same Roll, where the Declaration aforesaid

foresaid was entered, immediately after the entry of the said Declaration, omitting, fraudulently and deceitfully, the entry of the hearing of the indorsement of the said writing by the said I F, B and E in forme aforesaid demanded, and to them in forme aforesaid read, as by the said Record thereof, in the same Court of the said Lady the Queen here remaining, manifestly appeareth by reason of which said entry of the Declaration aforesaid, with the liberty to imparle without the entry of the hearing of the indorsement aforesaid, so by the fraud and deceit of the said T C in forme aforesaid omitted, and without the knowledge of the said I F, B and E, or any one of them at the aforesaid moztow of Holy Trinity then next following, in the same Court, by the direction and appointment of the said T C, came the said B & M, by one T A then their Attorney, and as befoze declared against the said I F, B and E of the aforesaid Plea in forme aforesaid, and then and there requested, that the same I F, B and E might answer to their Declaration, and the said I F, B and E, at that day appearing in the said Court, by the said Attorney, and being ignozant of the fraud and deceit done to them by the said T C, as in forme aforesaid, then and there offered to plead the Indenture between the said I A and K, and the said A E in forme aforesaid made, and the performance of all and singular Covenants, Grants, Articles, Clauses, Sentences, and Agreements in the Indenture aforesaid, above specified, on the parts of the said A and K to be observed and fulfilled, according to the forme and effect of the indorsement of the said writing obligatory, which said Plea being according to the course of the said Court, drawn into forme in paper, it was denyed by the same Court to be received and allowed for that, that it appeared by the said Record of Easter Terme that the said Executors requested, not the hearing of the indorsement of the said writing obligatory, but requested liberty to imparle to the said declaration, without any request by them made, to have the hearing of the indorsement of the said writing, whereas in truth that imparlance and the entry thereof was done in the names of the said Executors, by the said T C without the knowledge, warrant, or command of the said Executors, and by the fraud and deceit of the said T C, to defraud and frustrate the said Executors from having the benefit of pleading to the said indorsement of the said writing obligatory, which said Plea for the same aforesaid, not admitted by the Court, the said Defendants not having any good or true Plea for them to plead to keep them from the penalty of the said writing obligatory, said nothing, nor could say any thing in Bar, or preclusion of the Action of the said B and M aforesaid, but the said B and M then remained against the said I F, B and E without defence, whereby it was then and there considered in the said Court here, that the said B and M should recover against the said I F, B and E the aforesaid debt of one hundred marks, and their damages which they had by occasion of detaining of that debt to fifty shillings to the said B and M, by the consent of the Court here then adjudged: And the said I F and E should be in mercy, &c. As by the Record thereof amongst others more fully appeareth, which said Judgement against the said I F, B and E in forme aforesaid had, was had by reason of the entring of the Declaration aforesaid, with the imparlance aforesaid, by the fraud and deceit of the said T C in forme aforesaid, had and done without the hearing of the indorsement of the said writing obligatory, and entring thereof, by reason of which said falsity, and deceit by the said T C in forme aforesaid, had, done, and committed, the said I F, B and E, not only by the judgement aforesaid were not only condemned in the debt and damages aforesaid, but also in their goods and bodies are very much vexed, disquieted, molested, and damaged, and by the judgement aforesaid in forme aforesaid, burthened to pay the Defendant, and Damages aforesaid in deceit of of the Court of the said Lady the Queen that now is, and hinderance of the execution of the said Will to the damage of the said I F, B and E of one hundred

Plea drawn in paper according to the course of the Court.

Judgment by nil. dis.

Damage of the Plaintiff

hundred pounds, and thereof they pray remedy, &c. Pledges for plaintiff
ID R.R. Lewkner, R. Godfrey.

The Defendant appears in person, and pleads not guilty.

Count upon
the Statute.

R. 2. cap. 5.

by the new

Statutes fo.

205. a. upon

scandalum

magnat. by a

Peer of the

Realme, See

Coke 4 fo. 12.

b. Lord Crom-

wells case

which is en-

tered, T. 20. Eliz. Rot. 28. In the upper Bench, Statute of Westminter 1. cap. 33. viz. 3. Ed. 1. 33. See the Sta-

tute 12. R. 2. cap. 11. K. 2. fo. 26. 13. Hen. 7. a. b. 11. Eliz. Dyer. fo. 285. Pl. 37. Note the Plaintiff

prosecutes in his own name, See Coke 4 fo. 13. T. 12. H. 8. Rot. 430. The like Action is brought by the Bi-

shop of N. upon the same Statute.

M. 2. Cer. R.

Rot. 1933.

Even the like

by the Bishop

of Covent. and

Lichfield.

M 4 H. 8. Rot. 654. Lanc. ff. T. L. is attached to answer of Duke of Buckingham, of a Plea that whereas in the Parliament of Ric. 2. late King of England, after the conquest in the second year of his reign, appoin-
ted and held amongst other things, it was ordained, restrained, and prohibi-
bited, that none should be so hardy to devise, speake, or tell any false news,
lyes, or other such false things, of the Prelates, Dukes, Earles, Barons,
or other Nobles, and great men of the Realme of England, and also of the
Chancellor, Treasurer, Clerk of the Privy Seal, Steward of the Kings
House, Justices of the one Bench or the other, nor of other great Officers
of the Realme, whereof any discord, or any slander might rise within the said
Realme, and that he that did the same should incur, and have the paines and
thereto ordained thereof by the Statute of Westminter, the first of whom
the word was moved, as in the same Statute is more fully contained.

The same T. L. not weighing the Statute aforesaid, divers false and
horrible lyes of the said Duke, then being one of the Peers of this Realme
at Greenwich, scandalously said, related, and told abroad these words follow-
ing, that is to say, That the Duke hath great inward grudge unto the said T.
only for the true service that he had done to the Kings Father that now is
according to his truth. And also that the said Duke hath an Action upon
the case against the said T. in the County of Midd. and intendeth by his great
might and power, to have the matter of the said Action untruly tried against
him by twelve Jurors of the said County of Midd. whereby great scandal
and discords, to the said Duke then and there within the said Realme
rise in contempt of the King that now is, and to the damage of the
said Duke of two hundred pounds, and against the forme of the Statute
&c.

Intra & infra.

The Count.

without reci-

tall of the

AG, but see

the contrary.

Which note,

for by it it

seemes not to

be private, as

is alleadged

by the Plain-

tiff in Crom-

wells case.

Avowment in

the count in

fact against

the words.

M. 1. M. Reg.

Rot. 707 Lord

Sturt. against

Chamber.

And whereupon the said Duke by J. C. his Attorney complaineth that
the said T. the twentieth day of November Anno, &c. 2. not weighing the
Statute aforesaid, divers false and horrible lyes of the said Duke then be-
ing one of the Peers of this Realme of England, at Greenwich, in the said
County of Kent, scandalously said, related, and told abroad words in maner
and forme following, that is to say, That the Duke (as above) imputed
in truth the said Duke had not inward displeasure to the said T. for the false
full service of the said T. to the said late King done, neither the said Duke
ever intended by his great potency, or power to have matter of Action in the
Kings Bench, to be unjustly tried against the said T. by twelve Jurors
in the said County of Midd. whereby great scandal and discords to the
Duke then and there within the said Realme, did arise in contempt of the
King that now is, and to the damage of the said Duke, &c. and
against the forme of the Statute, &c. Whereupon he saith that he is wronged
and hath damage to two thousand pounds, and thereupon he bringeth his full

See the Book of Entries fo. 192. R. Title slander. As well to the Lord
King as to A. P. Sheriff of London.

¶ As before, untill you come unto that is to say, That he said that he
 set not by the said Duke two pence, and that the said Duke hath no more
 conscience then a Dog, and so the said Duke may have gold, he forceth how
 he cometh thereby, whereby scandall and discorde may arise to the said Duke,
 within the said Realme in contempt of the Lord the King new, and damage
 of the said Duke, &c. and against the forme of the Statute, whereupon he
 saith, he is the worse, and hath damage to the value of two thousand pounds,
 Judgement for the Plaintiff, damages forty pounds.

P. 27. H. 8.
 Rot. 338. Ar-
 thur Plani-
 met, Sheriff of
 L who, &c.
 against D, if-
 sue upon the
 travel of the
 words in an
 Action
 brought upon

the Statute of *Scandalum Magnas*. See the words in the old book of Entries, fo. 593. b. ti-
 cle Slander.

Error. Co. fo. 4. 13. a. Case hereupon, the reasons, because such Action is
 part as well for the King, as for himselfe, are 2. the first is, because the Nobles
 and Judges, &c. by the royall authority of the King, have the Administration
 of Justice towards his Subjects, by which it appeareth, that they are principally
 concerned in the Realm in his royall government, the 2. is to the intent that the
 preamble of the Statute of 2. Ri. 2. Cap. 5. saith, &c. See the Statute.

Reasons.

38. Eliz. Rot. 2241. Brownlow. Otherwise as it appeareth in Easter
 Terme, 38. Eliz. Rot. 906. It is thus contained, Lincoln H Earle
 of Lincolne, one of the cheife Governours and Peers of this Kingdome of
 Eng. who as well for the said Lady the Queen, as for himselfe followeth,
 by TG his Attorneys complaineth of LM one of the Attorneys, &c. here
 present here in Court in his own person; for that, to wit, that in the Statute
 (and recite the Statute as before) is more fully contained: And whereas
 also the same Earle the second day of August, Anno Reg. &c. 36. and long
 before was Earle of Lincolne, and one of the cheif Governours and Peers of
 this Kingdome, was, and yet is.

Count upon
 the Statute &
 forefaid, by
 an Earle for
 the Queen
 and himselfe,
 by bill against
 an Attorney.

Notwithstanding the said L not regarding the Statute aforesaid, nor any
 lawes fearing the penalty in the said Statute of Westminster the first con-
 triving to hurt and impaire the goods, name, state, credit, dignity, and ho-
 nor of the said Earle, after the making of the said act, to wit, the aforesaid se-
 cond day of August, Anno 36. abovesaid, at B in the presence and hearing of di-
 vers leige people of the said Lady the Queen that now is, then and there be-
 ing, said, related, and told abroad of the said Earle, then being one of the
 cheife Governours and Peers of this Realme of England, these false lyes, and
 scandalous words following, to wit, the Earle of Lincolne his men (meaning
 the men of the said Earle) did by his commandment take away by violence
 the goods of Walter Hoskins (the goods of one IH meaning) by a forged
 warrant, which warrant is in my Cupboard at home (meaning the Cup-
 board of the said L) and the said H did reprove the Earle (meaning the
 Earle) three times at the Counsell Table, the Earle (the said Earle mean-
 ing) and Hoskins approving the contrary: by reason of speaking, telling a-
 broad, and publishing of which said false and scandalous words, the said
 Earle is very much hurt in his reputation, honor, and dignity, and the said
 Earle, the grace and good opinion and estimation, which the Queens Ma-
 jesty that now is, and other Peers of the Realme formerly had, and car-
 ried to the said Earle, hath altogether lost, and divers rumors and scandalls
 amongst many the Governours and Peers of this Realme of England, by the
 occasion aforesaid, are risen and divulged within the same Realme of
 England, and great scandalls and discords, thereupon by the occasion afo-
 re, are risen betwixen him and divers Peers and other Subjects of the same
 Realme, & from day to day more & more are likely to arise, to the great disur-
 bance of the publick tranquillity of this Realme of England, in contempt of

The gri-
 vance.

The Damage.

the said Lady the Doen that now is, and great scandall and detriment of the said Earle, to the damage of the said Earle of one thousand poundes, and against the forme of the Statute, made in the aforesaid Parliament, of the late King Richard the second, and thereof prayeth remedy, &c. *Placed for profection*
J D, R R.

Not guilty.

And the said L in his proper person, cometh and defendeth the foresaid injury &c. and whatsoever, &c. & saith that he is in no wise guilty of the Premises above imposed upon him against the forme of the Statute aforesaid, as the said Earle who, &c. against him complaineth, and of this he putteth himselfe upon the Country, and the said Earle likewise, &c.

Trespasse upon the case against an Attorney for not delivering a Writ of Proclamation, upon the Exigent against the Plaintiff at the suit of his Client in debt to the Sheriff where the Plaintiff liveth, so that he could not have notice of the suit to give an appearance, but was returned outlawed.

His Attozney complaineth of R N, one of the Attozneys, &c. for that whereas one R R and I his wife, the fourteenth day of September, Anno 14. at London, &c. had retained the said R N then one of the Attozneys of the Court of the said Lord the King of Common Bench here, to wit, at Westminster aforesaid being, to be the Attozney of the said R R and I, in the said Court of the King here, to prosecute for the said R and I, as their Attozney out of the Court of Chancery, of the said Lord the King at Westminster in the County of Midd. then being a certaine originall Writ against the said W, in a Plea of debt upon demand of three hundred pounds, by virtue of which retainer the said R N then and there did prosecute out of the said Court of Chancery of the said Lord the King at Westminster in the County of Midd. then being the said Originall Writ of the said Lord the King, in debt for the aforesaid three hundred pounds against the said W, directed to the Sheriff of Midd. by which said Writ the said Lord the King that now is, commanded the then Sheriff of H and so recite the proceedings untill we come to this hereupon, &c. upon which said Writ of Exigent, issued forth another Writ of the said Lord the King, of Proclamation according to the form of the Statute made Anno 31. Eliz. late Queen of England, thereof made and provided directed to the Sheriff of Pemb. where the said W, at the time of the said Writ of Exigent, was abiding and conversant, which said Writ as aforesaid prosecuted, the same Attozney, as Attozney of the said R R and I out of the same Court of the said Lord the King of Common Bench prosecuted.

Notwithstanding the said R N maliciously contriving, might to preiudice impoverish the said W in this behalf, & to bring the said W into danger of losing & forfeiting of all his Goods, & Chattels to the said Lord the King that now is, the said R the aforesaid writ of Proclamation, upon the said Writ of Exigent against him the said W, at the suit of the said R R and I brought, & to the said Sheriff of Pemb. in forme aforesaid directed, before the returne of the said Writ, to the Sheriff of Pembroke did not deliver, whereby the said W having no notice of the aforesaid suit of the said R R and I, against him in forme aforesaid, commenced, appeared not at the said returne of the said Writ of Exigent, to keep safe the aforesaid W from the Outlawry aforesaid, whereby upon the said then Sheriff of Pembroke, for that the said W came not into the said Court of the said Lord the King here, to answer the said R R and I of the said Plea, at the morrow of the aforesaid Holy Trinity returned here, the said Writ of Exigent served and executed in forme following, so recite the returne of the Exigent unto the, untill he was the first time called and did not appear, Therefore the said Writ the Judgement of J G, and I C. Coroners of the said Lord the

King in the said County of H, was outlawed, by reason of which said Outlawry against him the said W in forme aforesaid published, and had, the said W forfeited all his Goods and Chattels to the said Lord the King that now is, to the damage of the said W of five hundred pounds, and thereupon he prayeth remedy, &c. Pleades to prosecute I D, RR.

The Defendant pleads not guilty, and befoze the tryall the parties agreed.

T 17. Ja. Rot. 2976. Brownlow. Suff. H. R B Esquire, was attached by Writ of the Lord the King of privilege, issuing out of the Court here, to answer R H Knight, one of the Serjeants of the said Lord the King at Law, according to the Liberties, and Privileges of the same Court for such Serjeants at Law, and other Ministers of the same Bench, from the time whereof no memory is extant, used, and approved in the same of a Plea of Trespasse upon the case:

And whereupon the said R H in his proper person complaineth that whereas he the twentieth day of October, An. Dom. Reg. &c. 9. and continually from thence forth, hitherto was seised, and yet is seised of a certaine Meadow called H Meadow with the Appurtenances in L, in the County aforesaid, in his demesne as of fee.

And also whereas a certaine River or Water-course did run, and from the time to the contrary whereof the memory of man is not, and untill the said twentieth day of October, Anno 9. abovesaid, did use, and was accustomed to run, and yet doth run from a certaine close of the said R H called B Meadow in L aforesaid, into a certaine way there and from thence, in, by, and beyond the aforesaid Meadow called B Meadow on the East part of the said Meadow: And also whereas a certaine other River or Water-course called N Brook, by the whole time aforesaid, was wont, and accustomed to run, and yet doth run, in, by, and beyond the aforesaid Meadow of the said R H called H Meadow on the South side of the said Meadow, into the aforesaid other River, and whereas also other waters falling and descending into the aforesaid Meadow called H Meadow, by the whole time aforesaid used, and were accustomed to run out of the aforesaid Meadow called H Meadow, into the said River called N Brook, and the two aforesaid Rivers, or Water-courses so occasioned to run together, and coming into one for the whole time aforesaid, from the said Meadow, in, by, and beyond a certaine close of the said R B, in N aforesaid in the County aforesaid, called the K close, used and was accustomed to run, and yet doth run, and from the said East side of the said Close called K Close, in, by, and beyond, certaine other Lands of the said R B in N aforesaid:

Notwithstanding the said R B not ignorant of the Premises, but maliciously intending wholly to deprive the said R H, of the profit of his said Meadow called H Meadow, the same twentieth day of October, Anno 9. abovesaid, the aforesaid River or Watercourse running as aforesaid, into the Close aforesaid called the K Close, from its wonted and accustomed course, into another and higher part of the same Close of new, did direct and carry, so that the Water of the said River running from the aforesaid Close called B Meadow, and from the aforesaid River called N Brook, and the said other Waters falling and descending into the aforesaid Close of the aforesaid R H called H Meadow, by reason of the aforesaid diversion, and altering the ancient course and stream thereof, doe overflow and drown the said Meadow called H Meadow, and the aforesaid waters falling and descending into the said Meadow called H Meadow, out of the said Meadow, cannot, as befoze it was wont to run, descend, and fall away, by reason whereof the said Meadow of the said R H called H

An Action upon the Case brought by a Serjeant at Law, for turning a Water-course, whereby the Soile of the Plaintiff is surrounded. H. 13. Ja. Rot. 3231. Such a privilege.

The grievance.

The damage.

Meadow is continually overflown and covered with water, and so the said R H the profit of his said Meadow, from the aforesaid twentieth day of October, Anno 9. abovesaid untill the tenth day of Aprill, Anno Reg. &c. 17. left, and the aforesaid meadow called H Meadow, by reason of the said overflowing and drowning, became reedy and infertile to the damage of the said R H, two hundred pounds, and thereupon he bringeth Suit, &c. Pledges to procure I D, R R &c. The Defendant pleaded not guilty.

Action upon the case for obstructing the way.

TII Rot Jvc. 336. Goldesburgh. Westminster. ff. L against C, and whereupon the said I by L S her Attorney complaineth that whereas the same I by reason of her Tenement in L S, hath a certayne way there to carry her bread, cozne, and hey, and ought to have, and the same I and all other who formerly had her aforesaid Tenement at L S aforesaid, were accustomed to have the aforesaid way to carry their bread, cozne, and hey, the aforesaid W intending to hinder and deprive the said I from her said way, the seventeenth day of March Anno, &c. 10. a certain Wall there overthwart the said way built and erected, whereby the said I her said way by along time, that is to say, from the aforesaid 17. of March, An. 10. abovesaid, untill the day of the obtaining of the original Writ of the said I, that is to say, the second day of Aprill, Anno, &c. 11. could not have, to the damage of the said I of one hundred pounds: And thereof shee bringeth Suit, &c.

Case for pulling downe a wall and post that supported the Plaintiffs Room.

M44. & 45. Eliz. Rot. 2907. Brownlow. London. ff. B against N, and Mothers of a Plea, that whereas one E K the seven and twentieth day of November, Anno Reg. &c. 32. was possessed of one Kitchin with the Appurtenances situate, lying and being in the Parish of Saint Austins, in the Ward of B. London, for the Terme of twenty foure yeares then next following, and being so thereof possessed, the same E the same twenty seventh of November, Anno 32. abovesaid, at L in the Parish and Ward aforesaid, demised to the said G the Kitchin aforesaid, with the Appurtenances amongst other things, to have and occupy to the said G, and his Assignes, from the Feast of the Nativity of our Lord, then next following unto the end and terme of twenty one years, from thence next following, fully to be compleat and ended, by virtue of which demise the said G in the morrow of the Nativity of our Lord, entred into the Kitchin aforesaid, with the Appurtenances, and was thereof possessed, and the same ought to have had and held, during the terme aforesaid, and whereas also the said E and T the twelfth day of Aug. Anno, &c. 34. and ever afterwards, hitherto were possessed of one Shop, and of a certaine entrance next adjoining to the said Shop, with the Appurtenances in the Parish and Ward aforesaid, part of which said Shop, and part of which said entrance, then were, and did ly directly under parcell of the said Kitchin, and parcell of the said Kitchin then was, and is directle ober parcell of the Shop aforesaid, and ober parcell of the enterance aforesaid, and those parcells of the Kitchin aforesaid, so being ober parcell of the Shop aforesaid, and parcell of the enterance aforesaid, then and at the time of the aforesaid demise made to the said G, was supposed with a certaine Brick wall being in the said Shop, and a certaine partition made of Timber, and built upon that Wall in the same Shop, and fastned with a certaine Post of wood under parcell of the Kitchin aforesaid, in the Shop aforesaid, the same E and S, the Premises sufficiently knowing, but meaning, and maliciously intending wholly to deprive him the said G of the use, profit, and comoditie of his said Kitchin, and him unjustly to ver afterwards, to wit, the thirtieth day of Aug. An. 34. abovesaid, the said Brick wall and partition thereupon, being as aforesaid, and the said post supporting, part of the said Kitchin as aforesaid, flatted, pulled up, and carryed away, whereby the floor of the said Kitchin being ober part of the said Shop, and part of the enterance aforesaid, being not supported, did sink downe, and was and is in so much thereby

made

made the worse, that the said G the use and profit of his said Kitchen, from the said 12. day of Aug. Anno 34. abovesaid, hitherto lost, to the damage of the said G of three hundred pounds, &c.

H 14. Jac. rot. 1959. Brownlow. Cornw. ss. F C against I T of a Plea, to wit, that whereas the said I lately in the Court of the said Lord the King that now is, before the Justices of the said Lord the King at Westminster in the County of Middlesex, by Writ of the said Lord the King impleaded, the said F of a Plea, wherefore, with force and armes upon the same I at the City of E he had made an assault, and him had beaten, wounded, imprisoned, and evilly intreated, so that of his life he despaired, and other wrongs to him had done, to the great damage of the said I, and against the peace of the Lord the King. And the said F, for that he came not into the same Court of the said Lord the King here, to answer to the said I in the said Plea, according to the Law and custom of the Realm of England, he was put to the Exigent to be outlawed in the City of E aforesaid: And upon that occasion afterwards, to wit, the eighteenth day of May, Anno Reg. &c. was outlawed.

Action upon the Case in consideration of 22 s. to deliver the Defendant to be discharged upon a Cap. Ul. within three or four dayes, and doth it not burthen suffereth the Defendant to continue in prison seven weeks.

And whereas also the said I afterwards, to wit, in the Term of the holy Trinity, Anno, &c. 11. abovesaid, for the sooner expediting of the said writ prosecuted upon the said outlary out of the Court of common Bench of the said Lord the King, a certain Writ of the said Lord the King of Capias against the said F, so as aforesaid, at the sute of the said I in the Plea aforesaid, directed to the then Sheriff of the said County of Cornwall, by which said Writ, &c. reciting the said outlary: And that he was arrested, &c. and that the Defendant, in consideration of two and twenty Shillings paid to him, promised him to be discharged out of prison within three or four dayes, and shews, that he did not procure him to be discharged within three or four dayes next ensuing, but compelled him to be in prison by seven weeks, &c. and thereupon prays remedy, &c. judgment was given for the Plaintiff after verdict.

Hutton.

D 9. Jac. rot. 1051. Waller. Essex. ss. R R was summoned to answer W M of a Plea, wherefore he levied a certain Fair in H R, otherwise H B, to the indamagement of the free Fair of him the said W in his Chafe of Hatfeild in H R, otherwise H B, within thirty yeats now last past, &c.

Nuisance for levying a Fair in prejudice of another Fair of the Plaintiffs.

And whereupon the said I, by I W his Attorney saith, that whereas he is and long since was seised of and in the Chafe of H, with the appurtenances, H R, otherwise H B, in the County aforesaid in his Demesne, as of fee; And the same W hath and holdeth, and ought to have and hold the same, and the same W, and all those whose estates the same W hath in the Chafe aforesaid, from the time whereof the memory of man is not to the contrary, have had, and held, and were accustomed to have and to hold a certain free Fair in a certain place within the Chafe aforesaid, called Chibnal-green, early at the Feast of St. James the Apostle, for all Wares and Merchandises, and all Cattel then and there in the said Fair to be bought and sold by any way, together with the toll, Stallage, picage, and all other profits, commodities, and emoluments whatsoever, in the said Fair coming, happening, arising, issuing, growing, renewing, or chancing, and withall other Liberties, Preeminences, Jurisdictions, and free Customs whatsoever to the said Fair belonging and appertaining, as to the Chafe aforesaid, with the appurtenances.

Notwithstanding the said R R at the Feast of St. James the Apostle, Anno Reg. &c. 8. at H aforesaid, in the aforesaid County of E levied a certain Fair

fair within the said Town, there to be kept at every Feast of St. James the Apostle, in every year for ever, before which said levying of the said fair, great numbers of Cattel, Wares, and other Merchandizes, things to the said free fair of the said W yearly every feast day of St. James the Apostle were usually brought, and then and there in the said fair of the said W in the Chase aforesaid were wont to be bought and sold to the great profit and utility of the said W.

And now after the levying of the aforesaid fair by the said R R within the aforesaid Town of Hatfield, and by reason thereof a great part of the number of all Cattel, Wares, and Merchandizes which were usually wont to come and be brought, to the aforesaid fair of the said W in the Chase aforesaid, before the levying of the said fair of the said R R within the said Town of Hatfield, do not come nor are brought, but in coming to the said fair of the said W in the Chase aforesaid, in the fair of the said R within the Town of Hatfield are bought and sold, to the great endamage of the free fair of the said W in the Chase aforesaid, by which the said W his toll, stallage, and other profits, commodities, and emolument of his free fair in the Chase aforesaid he wholly lost, to the damage of the said W of two hundred pounds, and thereof brings lute, &c.

And the said R by I C his Attorney cometh, &c. and saith, that the said fair levied as is aforesaid, within the said Town of H, was not levied to the indamage of the free fair of the said W in the Chase aforesaid, and the said W by his writ and Declaration aforesaid doth suppose, and sheweth this he putteth himself upon the Country. And the said W likewise, Ven. fac. ret. Quadr. Pasche. It was discontinued by the Court at the request of the Plaintiffs Attorney. Inquire the cause. Dec. 22. H. 6. fo. 14. b. ff. Paston.

Cafe for not
safe covering
of fire.

T 11 Jac. rot. 3417. Brownlow. E. ss. T W against W O of a Plea, that whereas, according to the law and custom of the Realm of England the King of England it hath been hitherto used and approved, that every man of the said Realm is bound safely and securely to keep his fire day and night, least that for neglect of the due keeping of such fire any damage should happen to his neighbors, the said W his fire so negligently and carelessly kept, that for neglect of the due keeping of his fire the Goods and Chattels of the said T, to the value of ten pounds, in his houses there being, were burned, to the great damage of the said T, and against the custom, &c. And whereupon the said T by W B his Attorney complaineth, that whereas, according to the Law and custom of the Realm of the said Lord the King of England, it hath been hitherto used and approved, that every man of the said Realm is bound to keep his fire safely and securely day and night, lest that for neglect of due keeping of such fire, any damage may happen to his neighbors, the said W the fourth day of August, Anno, &c. 10, being possessed of one Messuage, with the appurtenances, in W aforesaid, in which said Messuage the said W then remained and inhabited, and his fire so negligently and carelessly kept, that for neglect of the due keeping of his fire the Goods and Chattels, to wit, one cupboard and other goods, &c. to the value, &c. in the houses of the said W being: And the house, viz. one hall, one dining room, one kitchen, one barn, one stable, one ore-house, one other house called a hey-house, of which the said T was then leased in his Demesne as of fee, nere adjoining to the said Messuage of the said W then and there was burned, to the great damage, &c. and against the custom, &c. whereupon he saith, that he is the worse, and hath damage to the value of one hundred pounds, and thereof bringeth lute, &c.

The Defendant pleads not guilty. No Judgment. The parties agreed.

P 11. Jac. rot. 3416. Brownlow. London. ff. G L against R R. <sup>Case upon fe-
veral assump-
sits.</sup>
And whereupon the said G by D P his Attorney complaineth, that where-
as the said R the thirteenth day of February, Anno Eliz. Reg. 32. at London
in the Parish of St. Mary Bow in the Ward of Cheap had accounted with
the said G of divers sums of money to the said G by the said R, then due for
divers Wares and Merchandizes by the said R of the said G, before that time
bought: And upon that account the said R was found then and there in ar-
rearages towards the said G in forty five pounds and four shillings: The said
R then and there in consideration thereof, upon himself assumed, and to the said
G then and there faithfully promised to pay to the said G the same forty five
pounds and four shillings upon the first day of July then next follow-
ing.

And also whereas the said R the seven and twentieth of April, Anno 30. a-
bove said, at L, &c. aforesaid, had accounted with the said G of divers other
sums of money to the said G by the said R then due, for divers other Wares
and Merchandizes to the said R of the said G, after the said thirteenth day of
February, Anno, &c. 32. and before the said seven and twentieth day of
April bought: And upon that account the said R was found in arrearages to-
wards the said G in thirteen pounds, the same R then and there, to wit, the said
seven and twentieth day of April, Anno 32. above said, at L in the Parish and
Ward aforesaid, in consideration thereof upon himself assumed, and to the said
G then and there faithfully promised to pay to the same G the said thirteen
pounds upon the five and twentieth of May then next following, which said
several sums of money in the whole do amount unto fifty eight pounds four
shillings.

T 8. Jac. rot. 2483. Waller. Norff. ff. R W complaineth of W <sup>Case for over-
charging a
Common.</sup>
L, and whereupon the said R by R B his Attorney complaineth, that
whereas the same R was and yet is seised of one Messuage and eight acres of
Land, with the appurtenances in S aforesaid in his Demesne as of fee;

And being in thereof seised, the same R, and all those whose estate he hath
in the Tenements aforesaid, with the appurtenances, from the time whereof
the memory of man is not to the contrary have had, and were accustomed
to have common of Pasture in one hundred and forty acres of Pasture, with
the appurtenances, called S Common, lying between the borders of the
Towns of S and F, in the County aforesaid, and the Lands of the said W
on the South East side, and abutting upon the Lands of divers men a-
gainst the East in S aforesaid, for all his commonable Cattle, and upon the
said Messuage and eight acres of Land, with the appurtenances, leant
and trenched in every year at their free will and pleasure, as often as it
should please them, as to the said Tenement, with the appurtenances, belong-
ing and appertaining, the said W and L of the one hundred and forty acres of
Pasture, with the appurtenances, called S Common, being seised in his De-
mesne as of fee, as sufficiently knowing the premises, minding, notwithstanding,
and maliciously intending the said common of Pasture of the said
W with the Cattel of the said W and L in the one hundred and forty acres of
Pasture, with the appurtenances, unjustly to overcharge, and by reason
thereof to hinder and deprive the same R of his profit and common of his Pa-
sture aforesaid, the first day of June, An. &c. 16. at S put their Cattel, to wit, four
hundred Sheep upon the aforesaid one hundred and forty acres of Pasture to
repasture the grasse then and there growing, and then in and upon the same
one hundred and forty acres of Pasture to depasture the grasse then and there
growing, from the said first day of June, Anno 6. above said, until the first day
of June, Anno, &c. 7. kept with intention and a set purpose to hinder
the said R of his Common of Pasture for all his commonable Cattel up-
on

on the said Messuage and eight acres of Land, with the appurtenances, to wit, and couchant by the time aforesaid, into the Demesnes aforesaid, with the appurtenances, by the whole time aforesaid lost, to the damage of the said I ten pounds: And thereof bringeth suit, &c.

And the said W and L by I B their Attorney, come, and defend the said I and injury when, &c. no Action, &c. because by protestation that they have not put nor kept the said four hundred Sheep upon the said one hundred and forty acres of Pasture as the said R by his Writ and Declaration above supposed; for Plea, they say, that before the time wherein the trespass aforesaid is supposed to be done, to wit, the sixth day of March, Anno H 8. 32. one H B Gent. was seised as well of the said one hundred and forty acres of Pasture, as, of the said Messuage and eight acres of Land, with the appurtenances, in his Demesne as of fee, which estate of the said H D of and in the aforesaid one hundred and forty acres of Pasture, with the appurtenances, the said W H now hath: And the aforesaid time in which, &c. and long before had in the same, and this he is ready to verifie, whereupon he prayeth Judgment if Action, &c.

Mercy.

Whereupon the said R being solemnly called came not, &c. nor prosecuted his said Writ: Wherefore he and his Pledges to prosecute are in mercy, &c. let the names of the Pledges be inquired of, &c. And the said W and L go thereof without day, &c.

The Plaintiff is non-sured.

It is also considered, that the said W and L recover against the said R the damages, by occasion of the premises, to one and forty shillings to the said W and L at their requests for their costs and charges in that behalf sustained, according to the form of the Statute, &c. by the Court here adjudged, &c.

Action upon the Case for annoyance by the Defend. being a Shoemaker in conveying his smels by his oyles and other excrements out of whereby he

M 12. Jac. rot. 509. P against R. ff. by A B his Attorney complaineth, that whereas the said I is seised, and of a long time was of and in one Messuage and a Barbers Shop, with the appurtenances, in Bury County aforesaid, parcel of that Messuage, and of and in one Pard next adjoining to the said Messuage, and one Garden to the said Pard next adjoining, with the appurtenances, in B aforesaid, in his Demesne as of fee.

his house by a gutter by him made, to the house and shop of the Plaintiff, being a Barber, looeth his custom.

And also whereas the said H from the first day of October, Anno Reg. 10. and alwayes afterwards, until the day of obtaining of the said original Writ of the said I, to wit, until the one and twentieth day of June, Anno Reg. 12. occupied and had in his own Occupation and possession, one House, and one Shoemakers Shop, and a working house, with the appurtenances in B aforesaid, to the Messuage, Pard and Garden of the said I aforesaid, on the South side of the River adjoining, the said H endeavouring and maliciously intending to do great damage and incommodity to the said I, and wholly to deprive and hinder him the said I of the commodity, use, and profit of the Messuage, Barbers Shop, Pard, and Garden aforesaid, the first day of October, Anno Reg. 10. abovesaid, at B aforesaid, a certain Sink in the Working-house of the said H coming from the said Working-house into the Pard of the said I then newly made, to the intent that the stinkes of his oyles daily used and to be used by him the said H in his said Working-house and other filthinesse out of the Working-house of the said H entered and ran forth in the aforesaid Pard of the said I, and from thence into the said Garden of the said I conveyed.

And the said I in fact saith, that the said H the said first day of October, Anno 10. abovesaid, and alwayes afterwards, was and yet is a Cozdwiner, and by the said whole time several kinds of oyles in and about his Art and Mystry of a Cozdwiner used. And likewise from time to time by the whole time aforesaid, dung, excrements, filthynesse, and noysomnesse of the said oyles and of other corruptions out of the Working-house of the said H in great abundance and quantity did cast forth, so that by making of the gutter aforesaid, as well the said filthynesse of the oyles aforesaid used within the time aforesaid, and the same filthynesse, noysomnesse, and ill labours thereof in the said Working-house of the said H within the said time as is aforesaid, cast forth and effused into the said Yard of the said I, and from the same Yard of the said I into the said Garden of the said I have flowed and run, and the aforesaid filthynesse by the time aforesaid arising and coming to the Yard and Garden aforesaid of the said I, brought great hurt and intollerable incommodity, to the manifest danger of his life: And the said I by reason of the gutter aforesaid, so as aforesaid made, hath not only lost the whole profit and commodity of his Yard and Garden aforesaid, but also thereby he lost the use and profit of his Trade of a Barber by the whole time aforesaid, his customers for that cause refusing to come to his said Shop, to the damage of the said I of forty pounds, &c.

The Defendant pleaded not guilty, Verdict for the Defendant, and four pounds costs adjudged, &c. Goldesburgh.

M 11. Jac. rot. 529. Goldesbrough, before Cook. London. ff. R H of the City of Westminster in the County of Middlesex. S was attached to answer W R Cent. upon a Trover for three gilt silver bowles, possessed nineteen March eight, omitting to shew the day, the Trover the twenty eighth March nine Jac. the Conversion 12. April, Anno 9. abovesaid, damages ten pounds, &c.

Trover.

And the said R no Action, because he saith, that the said W was possessed of the said three Bowles, as of his proper Goods and Chattels, And so being thereof possessed, afterwards, to wit, the six and twentieth day of June, Barre, that Anno &c. 10. at London, in the Parish and Ward aforesaid, borrowed of the said R two and twenty pounds, to be repayed to the said R upon the six and twentieth day of September then next following, for the secure payment of which said two and twenty pounds at or before the said six and twenty day of September to be made, then and there delivered and pawned the three bowles to the said R. By reason of which premises the said three bowles came to the hands and possession of the said R, and the said two and twenty pounds hitherto are not paid.

they were delivered as a pledge for money which was not satisfied, and issue thereupon.

And the said R saith further, that he from the said six and twentieth day of September was ready, and yet is, to redeliver to the said W the said three Bowles, and he brings them here ready in Court, if the said W the said two and twenty pounds to the said R would pay, and this he is ready to verifie, if judgment, &c.

The Plaintiff replies and maintains his Declaration, and traverseth the pawning, &c. pro ut, &c.

The Defendant maintains his barre, and Issue upon the traverse. Pro Judgment.

M 11. Jac. rot. 939. Goldesburgh, before Cook. Suff. ff. I W late of, &c. and E H &c. were attached to answer to the Warden of the Church of N aforesaid, &c. And whereupon the said S by R S his Attorney complaineth, that whereas within the Church-yard of the Church of N are growing in the Church yard, and that the Church Wardens have used to have them to repair the fences of the Churchyard.

Cause by a Church Warden for cutting and lopping of trees

and from the time whereof the memory of man is not to the contrary, were certain trees, to wit, two Dukes, two Elmes, three Alders, and two Hawthornes growing.

And whereas the Warden of the said Parish Church of N aforesaid for the time being, as often as the fences of the said Church-yard of the Parish Church aforesaid, should be in decay and stand in need of reparation and amendment, from the whole time aforesaid have used and accustomed to cut the boughs of the said trees growing in the said Church-yard, and to repair and amend the fences of the said Church-yard with the wood coming from those boughs. And also whereas the said S is, and the fifteenth day of Mar. An. &c. 10. and before was Warden of the Parish Church of N aforesaid duly elected and put into the said office, And the said fifteenth day of March, Anno 10. above said, and before, the fences of the Church-yard of the said Parish Church were in decay and wanted reparation and amendment, and are yet in decay and want reparation and amendment, by reason whereof the said S, being Warden as is aforesaid of the Church aforesaid, the said fifteenth day of March, Anno &c. 10. above said, intended and purposed to cut of the boughs of the trees aforesaid growing in the said Church-yard, and to repair and amend the fences of the said Church-yard with the wood from thence coming, the said I and E maliciously endeavouring much to hurt the Parishioners of the Parish aforesaid, and to deprive and defraud them of the boughs of the said trees for the reparation and amendment of the fences of the said Church-yard, according to the custom had in form aforesaid, the said fifteenth day of March, Anno 10. above said, by the command of one W G Clerk, Rector of the Church of N aforesaid, the boughs of all the trees growing in the Church-yard aforesaid cut off, and the wood, that is to say, six cart load of wood thereof coming, took and carried away, whereby the said S any boughs of the said trees for repairing and amending of the fences of the said Church-yard, being as aforesaid in decay, could not have. And by reason thereof the said fences of the said Church-yard are yet in decay and not repaired, to the damage of the Parishioners of the Parish aforesaid of twenty pounds, and thereof they being liable &c.

And the said I and E by I P their Attorney come and defend the foresaid and wrong when, &c. And as to the cutting, taking, and carrying away of six cart loads of wood of the said six cart loads of wood, not guilty, &c. And as to the cutting, taking, and carrying away of one cart load of wood of the said six cart loads of wood residue, no Action, because protestation that the Warden of the Parish Church of N aforesaid for the time being, as often as the fences of the said Church-yard of the Parish Church aforesaid should be in decay and want reparation and amendment, from the time whereof the memory of man is not to the contrary, have not used and accustomed to cut the boughs of the trees growing in the said Church-yard, and to repair and amend the fences of the Church-yard aforesaid with the wood coming of those boughs as the said S by his Declaration aforesaid above doth suppose, for plea the said I and E say, that at the aforesaid time, in which, &c. the said W G was, and is, Rector of the said Parish Church of N aforesaid; And that the said I and E at the aforesaid time in which, &c. was and yet is seised in, and of the Church-yard of the Parish Church of N aforesaid, in right of his Church and his Demesne as of fee, whereby the said I and E as the servants of the said W, and by his command at the aforesaid time in which, &c. cut the said boughs of the said trees growing in the Church-yard aforesaid, and the said one load of wood thereof coming took, gave, and distributed to the poor of the same Parish of N aforesaid, as to them it was lawful, without that, that the fences of the said Church-yard of the Parish Church aforesaid, at the aforesaid

aforsaid time in which, &c. were in decay, and wanted reparation and amendment, as the said S by his Declaration aforsaid above supposeth: And this he is ready to verifie, Judgment if, &c.

Traverse the want of reparation.

AND the said S as to the aforsaid plea of the said I and E in cutting, taking and carrying of one load of wood of the said Sir loads of wood rest, one done, above pleaded in barre, ought not to be precluded, because as before he saith, that the fences of the Church-yard of the Parish Church aforsaid, at the aforsaid time of the trespass aforsaid done, were in decay and wanted reparation and amendment, as he hath above alleged. And this he prayeth may be inquired of, &c.

T 10. Jac. rot. 3252. Brownlow. Som. ff. G M at the sute of I S, and inderupon the said J by his Attorneys complaineth, that whereas the same J is a good, true, and faithful Subject of the King that now is, and as a good, true, and faithful Subject of the said Lord the King from the time of his Nativity, without any fallshood, perjury, or any other harmful crime hath hitherto untouched and guiltlesse carried and behaved himself, and so as well amongst his neighbors and other faithful Subjects of the said Lord the King now, with whom the said J hath had society, was noted, taken, and reputed.

Slander for saying of the Plaintiff after he had waged his Law, and the Plea depending in an inferior

Courte, that he had taken a false Oath, and was a forsworne Knave.

And whereas also the said G in the Court in the County of Som. held at J in the said County, the nineteenth day of June, Anno Reg. &c. 18. before the Justices of the same Court had impleaded the said I in a Plea of debt upon demand of fifteen shillings, and the said I had answered thereunto in the same Court, that he owed not to the said G the said debt, nor any penny thereof: And this the said I was then ready to defend against the said G and his Sute aforsaid, as the said Court then should consider. And afterwards thereupon by the consideration of the same Court, the same I, in due manner upon his oath, by him upon the sacred Evangelists of God in the same Court, before the Justices perfected therein his law, saying, that he did not owe to the said G the aforsaid debt, nor any penny thereof, in form as the said G against him in the said Court had declared, the said G not ignorant of the premisses, but endeavouring and intending not only the good name, fame, state, and opinion of the said I to hurt, detract from, and make worse, and to bring into scandal, and defamation, and into hatred, and ill opinion of all the Subjects of the said Lord the King, but also to bring the said I into disturbance and vexation, and into perill of incurring the penalty of the Statute of the Lady Elizabeth late Queen of England made and ordained at Westminster in the County of Middlesex, in the sixth year of her reign, against those that should commit wilfull perjury, the nineteenth day of June, Anno, &c. 18. abovesaid, at Taunton said, stated, and pronounced to the said I, in the presence and hearing of many faithful Subjects of the said Lord the King that now is, and of the said I these false, feigned, scandalous, and opprobrious words following, that is to say, Thou (meaning the said I) hast taken a false and Oath in this Action (the said Sute in the said Court

Court in the County aforesaid, wherein the said I as aforesaid perfected his law meaning) as any man could take. And thou (meaning the said I) art a false forsworn Knave.

By reason of which false, feigned, scandalous, and opprobrious words, the same I is not only much hurt in his goods, name, fame, credit, and estimation, but also in doing of many lawful and honest businesses is much hindered, to the damage of the said I of forty pounds, and thereof he bringeth Sute, &c.

Slander against a Trade woman for saying that she kept a false debt book, and that the Country exclaimed against her for taking her debt twice over.

T 19. Jac. rot. 1706. Brownlow. C York. I B was attached to answer E S Widow, of a Plea, that whereas the same E is a good, true, and faithful leige woman of the Lord the King that now is, and of good name, fame, credit, and conversation, and so amongst all her neighbors and leige people of the said Lord the King, to whom she was known, was had, named, and reputed without any falshood, deceit, or of any other hurtful crime unblamed and untouched remained and continued: And by the space of divers yeares now last past, within the City of York, well, justly, and faithfully used and exercised the Art and Occupation of a Woollen Draper, selling woollen cloth to divers persons, subjects of the said Lord the King, sometimes upon credit, and sometimes for ready money paid in hand: And by the whole time aforesaid had and kept a certain Book, called a debt book, wherein the said E justly and faithfully entered and noted all woollen cloth, and the price thereof, to all leige people of the King, as well upon credit as for ready money sold and delivered, that the Debtors of the said E might see in the same Book whensoever they should please, in how much they were justly and truly indebted to the said E for their Cloth by the said Plaintiff sold to them upon credit, without addition or false increase of the debt of any man: And by reason of her honest and faithful dealing with all leige people of the said Lord the King, with whom by way of selling of woollen Cloth, she had dealt and comered, a great quantity of woollen Cloth yearly to the leige people of the said Lord the King that now is, now as well upon their credits as for ready money paid in hand, at the aforesaid City of York uttered and sold, in the maintenance of the said E any her whole family, and the increase of her estate:

Notwithstanding the said I B not ignorant of the premises, but endeavouring and maliciously intending the said E in this behalf to impoverish, and in her goods, name, fame, and credit to hinder and make worse: And also to bring her the said E into distrust and evil opinion among all faithful subjects of the said Lord the King, to whom she was known, and with whom in any manner she dealt and intermedled, and that the said leige people of the said Lord the King, who had wont to deal with the said E in her Art and Occupation, to desist and distrust further to deal with the said E the thirteenth day of January, Anno Reg. &c. 18. at the City of York aforesaid, in the presence and hearing of many leige people of the now King, falsely and maliciously said, related, and published of the said E these words following, She (the same E meaning) doth keep a false Shop Book (the said Book of debts of the said E meaning:) And the Country (men inhabiting in the said City of York, and in neighbouring places in the said County dwelling, and who before were wont to buy woollen Cloth of the said E meaning) do complain against her (the said E meaning) for taking her debts (the debts of the said E in the said debt Book meaning) two times over.

By reason of the speaking, publishing and pronouncing of which said false and scandalous words the said E is not only much hurt and made worse, in her goods, name, fame, credit, and estimation, but also her customers and other leige people of the said Lord the King, who before had used to buy woollen Cloth of the said E, upon their credits, and whose debts were alwayes used to be set down in the said debt Book justly and truly, further to buy of the said E upon

Eupon their credits of the said E, or any wayes to intermedle with the said E, ha'be altogether refused to the damage of the said E of forty pounds, and thereupon the bringing suit, &c.
Issue not guilty.

M 19. Jac. Rot. 1663. Brownlow. Norff. ff. H S was attached to answer W F of a Plea, that whereas the said W was possessed of a certain fisher-boat called the Susan to the value of one hundred pounds, lying in the Port of great Yarmouth against the side of a certain Wharf there called the Key side, and tied with a certain rope called a fess, to a certaine post upon the said Wharfe in great Yarmouth aforesaid erected, as of his own fisher-boat, and being thereof so possessed, the said H endeavouring the said W in this behalfe of his fisher-boat wholly to spoyl, afterwards, to wit, the nine and twentieth day of August, Anno Dom. 1620. at great Yarmouth, the aforesaid fess, wherewith the said fisher-boat was tied to the said Post in forme aforesaid, voluntarily, and maliciously did unty, whereby the said fisher-boat in the said Port did float with the stream, and the water in the said Port then running, in great force and violence towards the Bridge in great Yarmouth in I aforesaid, the said fisher-boat was driven by the violence of the stream, to the Bridge aforesaid, that the said fisher-boat then and there was much bruised, and dammified to the damage of the said W of forty pounds, and thereupon he bringeth suite, &c.

Case for untying a cord that fastned a boat to a Wharf, so that that the boat floated, and was carried by the violence of the streame to the Bridge, and much bruised, &c.

M 1. Ca. Reg. Rot. 2230. Brownlow. Midd. ff. R R late of London Knight, late Sheriff of the County of G, was attached to answer P T Baronet, of a Plea that whereas reciting, That one G R Knight brought an Action of Wast against the said Sir Paule, for wast done in divers Lands in the County of Glouc. and recovered seisin of the places wasted, and treble damages to sixty seven pounds and ten shillings, whereupon a Writ of Seisin and Elegit were awarded returnable Tres Trin. and thereupon H H then cheif Justice of the Common Bench, 9. Junij 22. abovesaid, befoze any execution done, for the ancient fee of two shillings four pence, for the allowance of the said Writ of Superseas to be executed in forme of Law: Post withstanding the said R not ignorant of the Premises, and the said command of the said Lord the King, not regarding, but maliciously contriving and intending the said P unjustly to vex and trouble, after delivery of the said Writ of Superseas, to the said R by the said P in forme aforesaid made, and befoze the said Plea upon the said Writ of Error, remaining indiscussed was determined, to wit, the tenth day of June, Anno 22. abovesaid, did execute the said Writ of Elegit, of the said Lord the King, befoze the Justices of the said Lord the King here, to wit, at Westminster aforesaid, returnable at the aforesaid three weeks of the Holy Trinity then next following, unjustly, and maliciously against the command of the said Writ of Superseas, and further to vex and disquiet the said P, a certaine inquisition at Stow in the said County of G, the aforesaid tenth day of June, Anno 22. abovesaid, befoze the said R then Sheriff of the said County of G being, by virtue of the said Writ of Elegit, by the oath of twelve honest and lawfull men of the said County of Gloucester took, and so recite the inquisition to the knowledge of the Jury of the said Inquisition: And the said R R Sheriff of the said County of G, being as is aforesaid, immediatly after the taking of the said Inquisition, and after the delivery of the aforesaid Writ of Superfed. upon the said Writ of correcting of Errozs to the said R, then Sheriff of the said County of G, as is aforesaid made, to wit, the tenth day of Iuly, Anno 22. abovesaid, the moeyty of the Dannoys, and Tenements aforesaid, to wit, the Tenements aforesaid with the Appurtenances in R aforesaid, in the inquisition aforesaid specified, caused to be delivered to the said E B, by the exten aforesaid,

Case against a Sheriff for executing a writ of Elegit after a Superseas allowed upon a Writ of Error.

faid, to hold to him and his Assignes as his free hold, until the damages in the said Writ of Elegit specified, shall be levied. And the said R. By bearing the Sheriff of the said County of Gloucester, the said Writ of Elegit in forme aforesaid executed, and the Inquisition aforesaid, by him the said Sheriff in forme aforesaid taken, and to the said Writ of Elegit annexed and sealed, notwithstanding the said Writ of Superedeas, upon the said Writ for redressing of Errors to him before delivered to the contrary, to the said Justices of the said Lord the King at Westminster aforesaid, returned at the other said three weeks of the Holy Trinity, and the said Writ and Inquisition thereupon in forme aforesaid taken, and to the same Writ annexed in the Court of the said Lord the King of Common Bench at Westminster aforesaid, before the Justices of the said Lord the King, are filed and remain and are upon Record, whereby the said P not only from his possession of the Tenements aforesaid, to the said E. in forme aforesaid, delivered, was expelled and removed, but also from receiving the profits of those Tenements from the day of taking of the Inquisition aforesaid hitherto, is hindred, to the damage of the said P of one hundred pounds, &c.

Case upon a
huy and cry
brought by
the Master for
a robbery
done upon his
servant, T. 6.
Jac. Rot.
1847. the
like.
Anno. 13. Ed.
1. The Sta-
ture of Win-
chester. &c.

P t. Ca. Reg. Rot. 874. Brownlew. Suff. ff. The men inhabiting last Hundred of W, in the County aforesaid, were attached to answer of a Plea, that whereas in the Statute in the Parliament of Edward the first at Winch. Anno, &c. 13. held, amongst other things it is ordained, for that that from day to day robberies, murders, burning of houses and thefts, more then usual then were done, then before they were done, and the felons could not be attained by the oaths of Jurors, &c. recite the statute word for word, &c. And whereas certain malefactors, unknown to the said I, at W in the County aforesaid, in a certaine place there called B near corner in the Kings way there, which said Town of W is within the said Hundred of W aforesaid, with force and armes upon one G P, servant of the said I made an assault, and threescore and eight pounds and thirteen shillings in monies numberd of the monies of the said I, in the hands and custody of the said G, being there found, feloniously from the said G took, spoiled, and carryed away, against the peace of the Lord Ia, late King of England, and the said G immediately after the felony, robbery, and spoyle aforesaid done at the Towne of E, in the said County of S, which said Towne of S is nigh the place where the said robbery as aforesaid was done, made hny and cry of the aforesaid robbery and felony, and then and there gave notice thereof, to the inhabitants of the said Towne of E, and after the robbery and felony aforesaid done, and within twenty dayes next before the day of obtaining the Original Writ of the said I, the said G befoze W M Esquire, then one of the Justices of the said Lord the King James, assigned to keep the peace in the said County of S, dwelling within the Hundred of G, and near the said Hundred of W, was examined upon his corporall oath, according to the forme of the Statute made at Westminister, in the County of Midd. Anno, Reg. Eli. 27. thereof made and provided, and the same G upon his said oath, then said, that he knew not the parties who did that robbery nor any of them, and forty dayes are now past since the said robbery was done.

Notwithstanding the said men inhabiting in the said Hundred of Walsingham, hitherto have not made amends to the said I. of the said robbery, nor have taken the bodies of the felons and malefactors, nor the body of any of them, nor hitherto have answered of the bodies of them, or the bodies of any of them, but have permitted those felons and malefactors to escape in contempt of the said I. of the King, and great damage of the said I, and against the force of the Statute aforesaid, &c. And hereupon the said I by IF his Attorney complained, that whereas certain malefactors, to wit, two men to the said I well known, the eleventh day of August, Anno, &c. Jacobi Reg. 22. absconded

W in the County of Wiltshire, in a certaine place there called Bagshot High-
way, near Beomaile corner in the Kings way there, which said Colone of W
is within the Hundred of Wiltshire, with force and armes, to wit, Swords,
Staves, and Knives, upon one G P servant of the said I made an assault, and
sixty eight pounds and thirteen shillings in ready money, of the monies of
the said I, in the hands and custody of the said G being there found, felon-
ously took, spoiled, and caried away, against the forme of the Statute of
the said Lord the King: And the said G immediately after the felony, robbery,
and spoyle aforesaid, done at the Colone of E, in the County of Wiltshire,
which Colone of E is nigh the place where the said robbery was done, made
huy and cry of the robbery and felony aforesaid, and then and there gave notice
to the inhabitants of the said Colone of E, of the said robbery and felony, and
after that robbery and felony so done, and within twenty dayes next before the
obtaining of the Originall Writ of the said I, to wit, the fifth day of Novem.
Anno Jac. Reg. &c. 22. aforesaid, the said G before the said W M Cg, as-
signed to keep the peace of the said Lord the King, in the said County of S,
dwelling at Thorpe within the said Hundred of G, and near the said Hundred
of W aforesaid, was examined upon his corporall oath, according to the
forme of the Statute at Westminster, in the County of Midd. Anno Eliz.
Reg. 27. thereof made and provided, and the said G upon his said oath, then
and there said that he knew not the parties that had done that robbery, nor
any of them, and after that robbery done, and before the obtaining of the Ori-
ginall Writ aforesaid, forty dayes now, to wit, the day of obtaining of the
Originall Writ of the said I are passed.

Notwithstanding the same men inhabiting in the said Hundred of W a-
foresaid hitherto, have not made amends to the said I of the said robbery, nei-
ther have taken the bodies of the said felons and malefactors, nor the body of
either of them, neither hitherto have answered for the bodies of them or any
of them, but have permitted those felons and malefactors, to escape in con-
tempt of the said Lord the King, and to the great damage of the said I, and a-
gainst the forme of the Statute aforesaid, whereupon he saith, that he is the
people, and hath damage to the value of one hundred and fifty pounds, and
thereof he bringeth lute, &c.

And the said men inhabiting in the Hundred aforesaid, by J C their At-
torney come and defend the force and injury when, &c. and whatsoever,
&c. and say that they are in no wise guilty of the Premises above imposed
upon them, against the forme of the Statute aforesaid, as the said I above a-
gainst them complaineth, and thereupon they put themselves upon the Coun-
ty, and the said I likewise: And thereupon the said I saith, that the said men
inhabiting in the aforesaid Hundred of W, where the said robbery was done,
the parties Defendants against whom the said I in forme aforesaid com-
plaineth, and for that cause prayeth a Writ of the said Lord the King to be
issued to the Sheriff of the said County, to cause to come here twelve, &c. of
the neighbourhood of the Hundred of G aforesaid in the said County, which
said Hundred of G is the next Hundred in the same County, next adjacent to
the said Hundred of W, to try the said issue above in forme aforesaid joyned,
because the men inhabiting in the Hundred of W, doe not gainsay this,
it is granted unto him, therefore it is commanded the Sheriff, that he cause
to come here in the morrow of the Holy Trinity, 12. &c. of the aforesaid Hun-
dred of G, by whom, &c. and who neither, &c. to recognize, &c. because as
well, &c.

21. Jac. Reg. 7. Waller. Mid. ss. The men in inhabiting the Hundred
of E and S in the County aforesaid, were attached to answer as well to
the Lord the King that now is, as to FF Gent. of a Plea that whereas, &c.

Action of the
case against a
Hundred up-
on the Statute
of huy and
reciting cry.

reciting the statute of Hue and Cry word for word, &c. And whereas certain Malefactors, unknown to the said F. in the Kings way, within the Parish of Bedford in the County aforesaid, which said Kings way is in the division of the Hundreds aforesaid, with force and Armes upon him the said F. made an assault, and one hundred fifty six pounds, and four shillings in ready money, of the monies of the said F. and other his Goods and Chattels, to the value of twelve shillings six pence, there found, feloniously from the said F. took, spoyled, and carried away, against the Peace of the said Lord the King that now is: And the said F. immediately after the Felony, robbery, and spoyl aforesaid done at the Town of H. in the said County of Midd. which said Town of H. is near the said place where the Robbery aforesaid, as aforesaid, was done, made Hue

H. 22. Eliz. rot. 113. Hue and Cry brought for a robbery done in the Confinis of the County,

p. 9. Jac. rot. 1842. M. 1. Jac. rot. 151. The division of a Hundred is where the robbery was done near the division of two Hundreds, which the Sheriff divided by a Hedge.

H. 4. H. 8. rot. 25. P. 4. H. 8. rot. 310. M. 25, & 26. Eliz. rot. 640. the Parliament Roll of the said Act sent into the Court of Common Bench, M. 6. H. 6. rot. 1. P. 12, & 13. H. 8. rot. 108. Hil. 31. Eliz. rot. 1434. & 728. T. 34. Eliz. rot. 1036. T. 33. Eliz. rot. 1735. T. 15. Jac. rot. 1952. T. 8. Jac. rot. 534. P. 2. Car. Reg. rot. 1718. T. 30. Eliz. rot. 1425.

H. 36. Eliz. rot. 116. Devon. Traher against the men inhabiting in the Hundred of Axminster, in the County aforesaid, and the men inhabiting in the Hundred of H. in the County aforesaid, and pleads notice given to both Hundreds, which note.

T. 30. Eliz. rot. 1425. P. 37. Eliz. rot. 341. T. 37. Eliz. rot. 1618. T. 23. Eliz. rot. 1301. P. 22. Eliz. Rot. 845. T. 28. Eliz. rot. 1027.

M. 37. & 18. Eliz. rot. 721. T. 19. Eliz. rot. 1436. Hue and Cry brought against two Hundreds, one after tryall is attained, and the other acquitted, and Judgment of the Plaintiff against one Hundred, and the Plaintiff in mercy for his false claim against the other Hundred.

and Cry of the Robbery and Felony aforesaid, and then and there gave notice to the Inhabitants of the said Town of H. of the aforesaid Felony and Robbery. And after the Felony and Robbery aforesaid, and within twenty daies next before the day of obtaining of the Originall Writ of the said F. the said F. before Henry Spiller Knight, then one of the Justices of the Peace of the said Lord the King, assigned to keep the Peace in the County aforesaid, dwelling within the said Hundred of S. was examined upon his Corporall Oath according to the form of the statute at Westminster in the County of Midd. Anno 17. Eliz. thereof made and provided: And the said upon his Oath then said, that he knew none of the parties which had done the Robbery, nor any of them: And after that Robbery done forty daies are now past; Notwithstanding the men inhabiting in the hundred aforesaid hitherto have not made any amends to the said F. for the aforesaid robbery, nor have taken the bodies of the aforesaid Felons and Malefactors, nor the body of any of them, neither hitherto have answered of the bodies, or body of any of them, but suffered the said Malefactors and Felons to escape, in contempt of the said Lord the King, and great damage of the said F. and against the form of the statute aforesaid, &c. And whereupon the said J. who as well, &c. by W. W. his Attorney complaineth, that whereas certain Malefactors, to wit, three men unknown to the said F. the 9. day of April, An. Reg. 20. in the Kings way, within the Parish of in the County aforesaid, is in the division of the Hundreds aforesaid, with force and armes, to wit, Swords, Staves, and Knives, upon him the said F. made an assault, and 156 l. and 4 s. ready money, of the money of the said F. and other Goods and Chattels, that is to say, four money Bags, two falling Bands, two Handkerchiefs, one pair of Stockings, one pair of Shoes, one Cloack bag, one Instrument called a Tille, and one Book there found, feloniously from the said F. took, spoyled, and carried away, against the Peace, &c. And the same F. immediately after the said Robbery and Felony done at the Town of H. in the County of Midd. which said Town

of H. is near the same place where such robbery was done, made Huey and Cry of the robbery and felony aforesaid, and then and there gave notice to the Inhabitants of the said Town of H. of the said robbery and Felony: And after the said robbery and felony done, and within twenty daies next before the day of obtaining of the said Originall Writ of the said F. to wit, the seventh day of July, *An. Reg. &c. xxj.* the same F. before the said H. S. then one of the Justices of the said Lord the King of the Peace, assigned to keep the Peace in the said County of *Midd.* inhabiting at *Latham* within the said Hundred of S. was examined upon his corporall Oath, according to the form of the statute at *Westminster* in the County of *Midd.* *An. Eliz. Reg. 27.* thereof made and provided. And the same F. upon his Oath aforesaid then said, that he knew not the parties which had done that robbery, nor any of them, and after that robbery done, and before the day of obtaining of the Originall Writ of the said F. forty daies are now past: Nevertheless the said Inhabitants in the Hundred aforesaid, have not hitherto made to the said F. any amends for the robbery aforesaid, neither have taken the bodies of the said Felons and Malefactors, nor the body of any of them, neither have they hitherto answered for the bodies of them, or the body of any of them, nor have suffered the said Felons and Malefactors to escape, in contempt of the said Lord the King, and great damage of the said F. and against the form of the statute aforesaid, whereupon he saith, he is the worse, &c. And thereof he bringeth suit &c. The Defendant pleaded not guilty, and tryall by the Hundred of *Isleworth*, Verdict and Judgment for the Plaintiff.

T 15 Jac. rot. 1244. Constable brought a Huey and Cry against the men inhabiting in half of the Hundred of *Waltham*, in the County of *Essex*, the Defendants plead not guilty, and found for the Plaintiff: And it was moved in arrest of Judgment that the writ was naught, for that it was (half of the Hundred of W. where it should have been to the men inhabiting in the Hundred of W. but it was alledged that such halfe Hundred of W. was an Hundred by it self: And it was adjudged good for the Plaintiff) but the better form is to bring the writ in this form, *The men inhabiting in the Hundred of W. in English, the half Hundred of VValtham, &c.*

D 2 Car. Reg. rot. 1718. *Tuttell* against the Inhabitants in the Hundreds of D. and C. in the County of *Herif.* for a Robbery done at C. and R. in the division of the said Hundreds, and the said R. immediately after the said robbery and spoyl done of *South-Mims*, in the County of *Midd.* near the said Hundreds of D. and C. made Huey and Cry, &c. and gave notice, &c. to the inhabitants of the Town of *South-Mims*, of that robbery, and adjudged good after a very long debate. See the new Book of Entries.

H. 22. Eliz. rot. 214. P. 37. Eliz. rot. 342
Action brought upon the statute of Huey and Cry against the Hundred of Godley, in the County of Surrey, and the robbery was done at Frymby in the County of Surrey, and Huey and Cry were made at B. in the said County, and it was held good, notwithstanding it was not the next Hundred where the robbery was done.

T. 37. Eliz. rot. 1628. or 1618. *Wetyn* brought his action upon the statute of Huey and Cry, against the Hundred of B. and the case was this, That he delivered part of his money to one that was in the Company, and they were robbed of the money. And *Wetyn* brought his action alone as the robbery only done to him, and he only robbed: and it was alledged in his writ that certain Malefactors, &c. upon him and one T. made an assault, and forty pounds in ready money, of the money of the said W. there found, feloniously of the said W. and T. spoiled, took, and carried away, and exception was taken, for that the writ was De iisdem spoliaver, and the robbery was of *Wetyn* only, and notwithstanding that, it was adjudged good and sufficient because the Owner of the money was before the Justice of Peace; but if two Owners of one summe of money, be robbed there, they ought to join in one action.

T 32 *Eliz. rot.* 210. The Carryer was robbed and the Goods of Estranger which he carried; And the Owner of the Gods brings the Action, and the Carryer makes the Huy and Cry, and makes Oath before the Justice that he knew not the parties &c.

T. 30 Eliz. rot. 1425. The Servant was robbed, and the Master was examined, and brought the Action, and the Servant may bring such an Action as well as his Master, *T. 44 Eliz. rot.* 206.

P. 36 H. 8. rot.
301. Act: n
u on the sta
tute for taking
of
until the Plain
iff made Fine.

Hil. 29 Eliz. rot. 88. Not informed in Huy and Cry, and Judgment that the Defendant be taken, where it ought to have been in mercy, and then Judgment was reversed, as it appeareth in *Hil. 30 Eliz.* in the Kings Bench *Rot.* 166.

M. 24, and 25 Eliz. rot. 1301. Hue and Cry brought by husband and wife, for robbery done upon the wife whilest she was sole.

M. Hil. 10 Jac. rot. 107. O. against the Hundred of *Whetherley*, in the County of *Cambridge*, the robbery done was for Monies, Bills, and Obligations.

Count upon the
statute of 5 E
liz. cap. 21.
for breaking of
pounds, by the
new statutes, f.
664. a. H. 9, &
10 Eliz. rot.
1830. Indg
ment for the
Plaintiff.
M. 15, & 16.
Eliz. rot. 652.
A recitall of
the first branch
of the Act, M.
19. lac. rot.
2153.

M 23, and 24 *Eliz. rot.* 442. *Ebor. ff. A. B.* late of, &c. and others, were attached to answer *William Hammond*, and *H. H. Gent.* of a Plea, that whereas in the statute in the Parliament of the Lady the Queen then at *Wesminster*, in the County of *Midd. An.* 5. &c. held, amongst other things, it is ordained by authority of the same Parliament, That if any person or persons after the Feast of Pentecost then next following, by day or night should at any time unlawfully without authority, break, cut down, cut out, or destroy any head or heads, Dam, or Dams of Pounds, Pools, Mores, Stagnies, Stewes, or severall Pits wherein Fishes were, or should happen to be put in, or stored by the Owners or Possessors thereof, or did, or should wrongfully fish in any of the said severall Ponds, Pools, Mores, Stagnies, Stews, or Pits aforesaid, to the intent to kill, take, destroy, or steal any of the same fish, against the will, mind, or pleasure, of the Owners, or Possessors of the same, not having any lawfull Title, or authority so to do, and thereof be lawfully convicted at the Suit of the said Lady the Queen, her Heirs or Successors, or of the party grieved, shall suffer Imprisonment of his or their bodies by the space of three moneths, and shall yeild and pay to the party grieved his trebble damages; and after these three moneths expired, should find sufficient securities for his or their good appearing against the said Lady the Queen, her Heirs and Successors, and all her Leige people for the space of seven years after, as in and by the said statute amongst other things is more fully contained. The said Defendants after the Feast of Pentecost aforesaid above specified, to wit, the eleven:th day of *May, An &c. 22.* unlawfully and without authority, the heads of four Ponds of the said Plaintiffs at *R.* at which Ponds, Fish, to wit, Tench, Bream, &c. of the said Plaintiffs, then being Possessors of the said Ponds, were stored, broke, cut down, and destroyed, not then having any lawfull Title, or authority so to do, whereby the Fishes of the said Plaintiffs, to the value of ten pounds, being in the said Ponds, were altogether destroyed, in contempt of the said Lady the Queen, and to the great damage of the Plaintiffs, and against the form of the said statute &c. And wherupon the said Plaintiffs, by *R. B.* their Attorney, complain that the Defendants after the said Feasts of Pentecost, to wit, the eleven:th day of *May, An. &c. 22.* unlawfully, and without authority, &c. as before; but specified what number of each severall sort of Fish were taken, to the value, &c. in the said Ponds then being, were altogether destroyed, in contempt of the said Lady the Queen, and great damage of the Plaintiffs, and gain

Declaves with
out the recitall
of the act.

gainst the forme of the statute. &c. whereupon, &c. damages to two hundred pounds, and thereof bringeth Suit, &c.

And the said Defendants by *T. A.* their Attorney, come and defend the force and wrong when, &c. and all contempt, and whatsoever, &c. And say, that no Action, &c. because they say, the place wherein the said breaking, cutting down and destroying of the heads and dams of the said Ponds, in the Writ and Declaration above specified to be done, are, and the same time wherein it is supposed the said breaking, &c. to be done, were ten acres of pasture, with the appurtenances in *R.* aforesaid, called *Goodmans Pasture*, which said ten acres of pasture with the appurtenances are, and the aforesaid time in which, &c. were the Soyl and free Tenement of *E. M. wid.* whereby the said *E.* in her own right, and the said Defendants, as Servants of the said *E.* and by her command at the aforesaid time in which, &c. the heads and dams of the said four Ponds, as the proper heads and dams of the said *M.* in the said ten acres of pasture, as in the Soyl and free Tenement of the said *M.* then being, broke, cut down, and destroyed, as they lawfully might: And this they are ready to verifie, whereupon they pray Judgment if, &c.

The Plaintiffs assign a new place, and pray Judgment according to the form of the statute to them to be adjudged, &c.

The Defendants plead not guilty to the new Assignment.

Defence in action upon the statute, the Defendants justify against the statute, because they say, that the place wherein, &c. containeth ten acres of land, &c. which are the Freehold of one of the defendants, and she in her own right, and the others as her Bayliffs, did the trespass, &c. against the statute, &c.
New Assignment.
Not guilty to the new Assignment.

T 31 *Eliz. rot. 611.* Trespass upon the statute against the Buyers of the pretended Titles.

Rot. 403. contra manu-tentores.

Rot. 307. et 610. for Champerty.

H. 18 Eliz. rot. 518. Trespass upon the statute *De ingr. mansforti.*

P. 9 Eliz. rot. 818. for Non-residence.

T. 8 Jac. rot. 534. Special Verdict in Hue and Cry against the Inhabitants of Stoke. *T. 10 Jac. rot. 315.*

T. 8 H. 4. rot. 105. Mich. 9 H. 4. rot. 640. Count in an Action upon the statute of Marshalsey, *M. 9 h. 4. rot. 110. M. 15. h. 6. rot. 331.*

M. 4 h. 4. rot. 158. Action upon the statute against the Constable of Dover, that he against the statute holds pleas at the port of the Castle, of such things forrein in the County, which touch not the Custody of the Castle, *M. 3 h. 4. rot. 329. T. 5 h. 6. rot. 389.*

M. 2. h. 4. rot. 396. Action upon the statute that none should be distrained by his Plow Cattell, or Sheep, if he have any other Cattell sufficient, &c. The Defendant saith, that he hath no other Cattell, *h. 4. h. 4. rot. 80.*

T. 8 h. 8. rot. 330. Action upon the statute of 13 R. 2. against such as follow in Admirall Court things that touch not the Sea, *M. 3 h. 4. rot. 206. T. 10 h. 5. rot. 311.*

T. 10 h. 6. rot. 322. Action upon the statute of Liveries the Defendant justifies.

H. 7 h. 6. rot. 109. An Action upon the statute for forestaling of years, 25. et 27 h. 6. h. 5. h. 6. rot. 224. rot. 344. *Mich. 4 h. 6. rot. 336. P. 4. h. 6. rot. 329.*

H. 14 h. 4. rot. 180. 774. de An. 7. h. 4. That no man should put his Son an Apprentice, unless he could expend of Lands and Tenements to the value of twenty shillings by the year, *Mich. 24 h. 6. rot. 671. T. 6. h. 6. rot. 318.*

P. 35 h. 6. rot. 301. Upon the statute in the nature of a Trespass, that none should be distrained out of his Fee nor in the Kings high-way, without a special Warrant from the King.

P. 15. h. 7. rot. 120. Action upon the statute of *Ed. 3.* against those that should take a Maid or a woman against her will, *P. 15 h. 7. rot. 304. usury M. 22 h. 7. rot. 318.*

T. 29 h. 6. rot. 103. Upon the statute of forcible Entry, *M. 6. h. 8. rot. 324. Mich. 33 h. 8. rot. 692 Mich. 2. & 3. Phil. & Mar. rot. 1308. Judgment.*

M. 3 h. 8. rot. 759. Action upon the statute of 1 Ed. 2. against such as put out any men out of their Messuages, which are held of the Priory of the Hospitall of S. John of Jerusalem in En. land, &c.

M. 3 h. 8. rot. 730. Action upon the statute against him that shall distrain any ones Cattell, and not put them in open pound, *M. 3 h. 8. rot. 512.* upon the statute of 33 h. 6. against the Sheriff, or other Officer who shall return upon any Inquisition, any Bayliff, Officer, or Servant of any Officer, &c. *M. 3 h. 8. rot. 512. P. 4 h. 8. rot. 319.*

There 304. upon the statute in the year 34 Ed. 3. against such as shall give to any Juror any sum of money, or other Gift to give Verdict, &c. *T. 2 h. 8. rot. 509* against them which take it.

Scil. rot. 123. Count upon the statute for Labourers, *h. 9 h. 5. rot. 114. M. 8 h. 4 rot. 292. P. 18 h. 6. rot. 121. h. 5. h. 6. rot. 330. h. 7 h. 4. rot. 101.*

P. 11 h. 6. rot. 64. P. 15 h. 6. rot. 207. Damages for service, &c. *P. 9 h. 6. rot. 126. T. 13 h. 6. rot. 302. M. 15 h. 6. rot. 455. P. 17 h. 6. rot. 496.* for refusal to serve.

M. 21 h. 7. rot. 447. Like upon the statute of 12 R. 2. against such as should exercise the Office of Sheriff, or under-Sheriff beyond the year, &c. And Judgment thereupon that the King shall have one moyety, and the party the other moyety, and his damages, and after the King remitted his moyety.

M. 22 h. 7. rot. 490. The like upon the statute of *An. 11 h. 7.* against those who shall take any money for exchange, and shall not come into Chancery to be bound, that within three moneths after the same Exchange he ought to buy with those monies divers Merchandizes, to wit, VVood &c.

P. 21 h. 7. rot. 490. The like upon the statute, *An. 11. h. 7.* against such who shall take any summs of monie, to the intent to have any gain or profit, &c.

M. 9 h. 5. rot. 194. Statute *de libertate mald. An. 4 h. 5.*

M. 8. h. 4. rot. 404. Upon the statute against him who shall follow any action in deceit of the Court, against the will and notice of the Plaintiff, the like 8 *Ed. 1. q. 11.*

Hil. 9 h. 4. rot. rot. 140. The like against Brasiers.

M. 30 h. 8. rot. 250. An Action upon the statute 6 h. 8. against Eschetors who take an Inquisition by men not returned by the Sheriff, *h. 30 h. 6. rot. 136.*

M. 30 h. 6. rot. 432. in a VVrit of Maintenance. &c.

Rot. 586. Upon the statute h. 8. Against him who caused one to be named in another County then wherein he liveth, and no proclamation before the Exigent.

H. 14 h. 6. rot. 49. the like upon the statute of 12 R. 2. That no Country-man should put his Son in Apprentice before twelve years of age.

P. 15 Car. rot. 616 Debt upon the statute of 7 Ed. 6. For selling of VVine by Retail without VVarrant or Licence, to wit, for 5 s. for every day.

A P D the said L saith, no action, &c. because he saith, that the said T before the said time in which it is supposed him the said L, the said T was to speak and publish, was possessed of two Lambs, as of his proper Goods and Chattels, and so thereof being possessed, the said T afterwards, that is to say, the six and twentieth day March, in the yeare of the reign of the said King the King that now is the twelfth, at H in the County aforesaid, the said two Lambs of the said M, in a certaine place there called M M fold being found, did feloniously steale, take, and carry away, and that the said T afterwards, that is to say, at the generall Sessions of the peace holden at S in the County aforesaid, the third day of May, in the yeare of the reigne of the said King the twelfth abovesaid, at the hinder part of a certain Cartes sayl, then and there was scourged, whereby the said L the said first day of Aprill, in the twelfth year abovesaid, at D aforesaid, did speak, relate, and publish of the said T, the

Justification.
Note this
pleading, he
doth not say
he was scourged
for the
offence.

said words, that is to say, thou stolest Lambs out of M M fold, and thou wert whipt at Sherborne Sessions at a Cart's taylor, as he might lawfully doe, and this he is ready to prove, judgement if Actien, &c. John More. See after words.

A P D the said T his Action aforesaid ought not to be barred, because he saith, that the said L the said first day of Apr. in the twelfth yeare above said, at D aforesaid, out of his meer malice, and without such cause by him the said L above alledged, openly and publicly did say, proclaime, and publish of the said T, the said words in the declaration aforesaid above specified, that is to say, Thou (the said T meaning) stolest Lambs out of M M fold, and thou (him the said T meaning) wert whipt at Sherborne Sessions at a Cart's taylor, in manner and forme as the said T above against him hath declared, and this he prayeth may be enquired of by the Country, and the said L likewise, &c.

The words.

H 11. 7 Jac. rot. 111. Brownlow Norff. ff. F. 7. r T. G. as in others, &c. And whereas also the said T. G. the first day of S. in the seventh year of the said King, at W. did sollicite one R W. the Daughter of A. wife of one H. F. Clerk, that the same R. he might take to wife the said R. then being worth in riches hundred pounds. And the said T. G. by reason of the good name, fame, condition, conversation, and sufficiency of the said T. in riches had obtained and gotten the great love and good will of the said R. and was very likely to enjoy the said R. to be his wife, with the consent and good will of the said H. F. and A. his wife, and of others the Friends of the said R. the said F. not being ignorant of the Premises, meaning the same T. of his good name, fame, estimation, and reputation aforesaid, with which before that he was induced to deprive, and the same T. into scandal opprobry and displeasure, amongst all as well worshipfull persons as others the Subjects of the said Lord the King that now is, and especially towards the said R. and the friends of the said R. to bring and induce: and by reason thereof the intended Marriage between him the said T. and the said R. to hinder and frustrate, the two and twentieth day of Sept. in the seventh year aforesaid, at W. aforesaid, upon communication between him the said F. 7. and the said H. F. and A. his wife, of and concerning the said Marriage, God willing, between the said T. and the said R. to be had and solemnized, then and there had, these, false, scandalous, and lying English words following of the said T. then and there did speak, assever, and publish, that is to say, T. G. (the now Plaintiff meaning) is a drunken Fellow, and common VVhoremaster, a common Swearer, a perjured person, and he (the said T. G. likewise meaning) is worth nothing, and he (the said T. likewise meaning) is sunck, by reason of the speaking, publishing, and proclaiming of which said false, feigned, scandalous, and lying English words, he is not only much hurt & made worse in his good name, fame, estimation, and reputation aforesaid, but also the said R. to take him the said T. to husband hath altogether refused, and as yet doth refuse, And also divers subjects of the said Lord the King by that occasion, from the company of the said T. do withdraw themselves, and with the said T. lawfully in buying and bargaining, to entermeddle or to have commerce as before they were wont, do altogether desist, to the damage of the said T. of forty pounds, and thereof he bringeth Suit, &c. See the like Action upon the Case brought by a Virgin, in Indrance of her Marriage in the common Book of Presidents, fo. 6. b. between D. and M.

Trespass on the Case brought by a Batchelour for slanderous words spoken of him in hindrance of his marriage. Suggestion that the Plaintiff should have been espoused to a woman. The grievance.

The slander.

The damage of the Plaintiff.

Trespass on the case brought by a Clerke for saying that he was a nest, witch, &c.

Rin. 23. Jac. Rot. 114. Rooper, Suff. ff. I L Clerk, against I C, for that, that is to say, that whereas the said I L is a good, true and faithfull and honest man and Subject of the said Lord the King that now is, & as a good, honest, witch, &c.

next, and faithfull Subject of the said Lord the King, and of the Lady Elizabeth late Queen of England, from the time of his nativity hitherto, himselfe hath governed and behaved, and of good name, fame, credit, and condition by the whole time aforesaid hath been, and remained without any crime of witchcraft, felony, murder, manslaughter, or any other hurtfull crime hath remained altogether untouched, and unsuspected, and of a pious, pure, and christian religion and conversation, alwaies hitherto hath been devoted, and in the study of Divinity from the time of his youth, hitherto alwaies hath been educated and in the sacred office of a Priest, by divers years now last past, not undeservably and unlawfully, hath been placed and instituted, and in the feare of the Lord, and in the obedience of his Prince, hath alwaies hitherto continued.

Notwithstanding the said I C not being ignorant of the Premises, the happy estate and degree of the said I L, greatly envying (meaning the said I of his good name, fame, & credit aforesaid, wholly to deprive him the said I for a witch, a murderer, and a felon to be called, and him the said I into the danger of losing his life, and mayning of his body, manifestly to bring, the fifth day of May, in the yeare of the reign of the Lord the King that now is the thirteenth, at S in the County aforesaid, in the presence and hearing of very many faithfull Subjects of the said King, then and there being, these false, feigned, scandalous, and malicious english words of the said I L, openly, publicly, and maliciously did say, affirme, and publish, that is to say, *God* (the said I now Plaintiff meaning) is a witch, and I (her the said I C meaning) will prove him so, and I have seen him (the same I L likewise meaning) and his impes or evil spirits appeare to me in the night time in my Chamber, and he (the same I L likewise meaning) did untruly a child mine (of her the said I C likewise meaning) by reason of which false words, &c. The Defendant pleads not guilty, the Jury being in, as to the speaking of the words (he is a witch) that the Defendant is guilty, and as to the rest due not guilty, Judgement for the Plaintiff, damages thirteen pounds and thirteen shillings nine pence.

And the said J C in mercy, &c.

TRin. 13. Ja. Rot. 113. Rooper. The same against T B for the like words, and Judgement for the Plaintiff. Damages as above.

Trespasse on the case for deceit against a Priest for the false writing of his name of baptism, in a bill which he made to the Plaintiff for debt whereby the Plaintiff is in danger of losing his debt, &c.

H. 4. H. 8. ro. 478. trespass on the case for counterfeiting of a Writing of acquittance.

EAfter, 9. Jac. Rot. 1802. Brownlow. T S against T P late of &c. Clerk, and whereupon the said T S by R E his Attorney complaineth, that whereas the said T P the second day of June, in the yeare of the reign of the Lord Charles that now is the first, of B, had been indebted to the said T S 40 s. to be paid unto the said T S upon the tenth day of July, their next following, the said T P for the security of the payment of the said forty shillings, upon the said tenth day of July, then and there had faithfully affirmed, to become bound unto the said T S by his writing obligatory, good and sufficient in the Law in the sum of eighty shillings, for the true payment of the said forty shillings, upon the said tenth day of July, and whereas also the said T P was named, known, and called by the name of T P, and not by the name of R P.

Notwithstanding the said R P, meaning, and wickedly intending the said T S, of the right name of the said T P being altogether ignorant, of his just and true debt aforesaid, falsely and fraudulently to deceive and defraud, and from all meanes and remedy to prevent and hinder him for recovering of his said debt, feigning and assuming to himself the name of R P, the said T P, obligatory by the name of R P, unto the said T S then and there falsely, fraudulently, subtilly, and deceitfully, did make and seal, and as his deed unto the

the said T S deliver, whereby the said T S into the manifest danger of losing of his said debt hath incurred, the same debt to the said T S by the said T P as yet being unpaid, and by the said T P unto the said T S to be paid and contented, denyed and refused, to the damage of the said T S of twenty pounds, and thereof he bringeth his Suite, &c. Judgement by saying nothing, and a writ of enquiry of damages awarded.

Hill. 7. 1a. Rot. 611. Brownlow. ff. SKlate of, &c. T F of a Plea that whereas the said T with the said S had lately bargained of buying of him a certaine Gelding, the said S that Gelding unto the said T did warrant whole & sound without any infirmity, by reason whereof the said T. the same Gelding for a great sum of money did buy of the said S. whereas in truth the said Gelding at the time of the buying aforesaid, was detained with divers infirmities and of those infirmities afterwards died, whereupon the said S. him the said T. in this behalf falsely and fraudulently hath deceived, to the damage of the said T. forty pounds, &c. And whereupon the said T. by R. F. his Attorney complaineth, that whereas the said T. the last day of April, in the year of the Reign of the Lord the King that now is, the sixth, with the said S. had lately bargained, of buying of him a certain Gelding, the said S. that Gelding unto the said T. then and there did warrant whole and sound, and without any infirmity; by reason whereof the said T. the same Gelding for a great sum of money, that is to say, for 90 s. and 2 d. of the said S. then and there did buy, whereas in truth the said Gelding at the time of the buying aforesaid, with divers infirmities, that is to say, of a certain disease in his head called the Poll-evill, and of a certain other disease called a Thisteloe, was detained: And of these infirmities afterwards, that is to say, the eighteenth day of July, then next following, at H. aforesaid died, so that the said S. him the said T. in this behalf falsely and fraudulently hath deceived, to the damage of the said T. of forty pounds, and thereof he bringeth suit, &c.

mity, &c. T. 22. Jac. rot. 1318. Case for warranty.

And the said S. by I. B. his Attorney, commeth and defendeth the force And wrong when, &c. and saith, ~~no~~ Action, because he saith, that the said S. the time of the buying of the Gelding aforesaid, by the same T. of the said S. in form aforesaid made, the said Gelding without any infirmity, which unto the said S. was then known, to be detained, unto the said T. did warrant: And that the said S. the said time of the buying thereof did not know the said Gelding had been detained with any infirmity, but he did truly then believe that Gelding to be whole and sound, without that, that the said S. the said time of the buying of the Gelding aforesaid, did warrant unto the said T. that Gelding whole and sound, without any infirmity, in manner and form as the said T. by his Declaration aforesaid above doth suppose: And this he is ready to prove, whereupon he prayeth Judgment if Action. &c.

a Goldsmith for false selling of a Sapphire for a Diamond.

And the said T. not to be barred, because he saith, that the said S. the said time of the buying of the Gelding aforesaid, did warrant the said Gelding whole and sound, and without any infirmity, as he above against him hath complained: And this he prayeth may be required of by the Country; and the said S. likewise, therefore, &c. no Verdict or Judgment, H. 43. rot. 1842. between Dyer and Karket, Trespasse on the Case in deceit for selling of stinking Herrings with Warranty, T. 8. 7. rot 767. the like for Warranty of rotten Sheep, T. 6. 7. rot. 1450. between B. and S. the like Case for Varranty of rotten Sheep, M. 8. 7. rot. 1358.

829. P. 12. Jac. rot. 534. T. 27 Eliz. rot. 408.

M^{41. & 42. Eliz. Rot. 3363. Brownlow. Wilf. ff.} Between S and &c. that whereas the said Plaintiff with the said Defendant, the second day of June, in the yeare of the reign of the Lord the King that now is the thirty seventh, at W, had lately bargained for the buying of him two and twenty Weathers and the said Defendant knowing the said Weathers would be fallen into divers infirmities, the said two and twenty Weathers did warrant sound, the said two and twenty Weathers for a certain sum of money, that is to say, for eight pounds unto the said Plaintiff, falsely and fraudulently then and there did sell to the damage, &c.

A second day of June, in the thirty seventh yeare abovesaid, at W above said did bargain and sell unto the said Plaintiff, the said two and twenty Weathers for the said eight pounds, then and there unto the said Plaintiff did warrant under this condition, that if the said Weathers or any of them did dye of any disease called the Coath before the Feast of the Nativity next following, then the said Defendant upon notice thereof to him given by the said Plaintiff or his assignes, before the said Feast of the Nativity, should allow to the said Plaintiff for every Weather so dying of the said disease before the said Feast, according to the rate which the said Plaintiff had paid to the said Defendant for the said Weathers, and the said Defendant in fact saith, that neither the said Plaintiff nor any other in the name of the said Plaintiff before the said Feast of the Nativity, did give notice unto the said Defendant, that the said Weathers or any of them died of the said disease called the Coath before the said Feast of the Nativity, without that the said Defendant did warrant, &c.

Trespasse on the case in deceit for that the Defendant did sell the Plaintiff a Gelding which was not his own proper Gelding, whereby a stranger took the Gelding out of the possession of the Plaintiff, &c.

T. 19. Ja. rot. 683. Brownlow. T against W, the like declaration, and a stranger sues a Replevin of the Gelding, which was replevied by the Sheriff, &c. Issue, not guilty.

T^{Rin. 37. Eliz. Rot. 1333. Suff. ff.} A I late of, &c. was attached to answer L M of a Plea that whereas such a day and yeare at N, a certain communication was had between him the said Plaintiff and the said Defendant, concerning a certain Gelding of the said Defendant to be bought, the said Defendant then and there did affirm to the said Plaintiff, that the Gelding aforesaid, was the proper Gelding of the said Defendant, by reason of his affirmation the said Plaintiff then and there did buy the said Gelding of the said Defendant for fifty three shillings and four pence, to the said Defendant by the said Plaintiff then and there given and paid, and the said Plaintiff in fact saith, that the said Gelding, the said time of that affirmation and buying was not the proper Gelding of the said Defendant, but the said Gelding at the time of that affirmation and buying was the Gelding of one D, and to the said D of right to belong and appertain, and that the said D afterwards, that is to say, such a day and yeare at N aforesaid, the said Gelding, as the proper Gelding of the said D, out of the hands and possession of the said Plaintiff, did take, and lead away, whereby the said Plaintiff by occasion of the Premises, not only in his Goods and Chattels is much depaupered and made worse, but also the said Plaintiff divers sums of money for his redemption in this behalfe to be had, was forced and compelled to lay out, pay and expend to the damage of the said Plaintiff of ten pounds, &c.

Trespasse on the case for enfringing up on a Liberty where the Bayly did not returne the Writ, see the Register fo. 104. Fitz. N. B. 94b.

T^{Rin. 17. Eliz. Rot. 813. & 809. Ford. Somm. SC late of, &c.} was attached to answer G Bishop, of B and W, of a Plea that whereas the said Bishop, the execution of all Writs, of the Lord the Queen, and also of

ditto

distresses issuing out of his Hundred of W, by his Bayliffs ought to make, so that any Officer of the said Lady the Queen within the said Hundred, to execute any Writs or Precepts.

And the said Bishop and his Predecessors execution within the said Hundred, from the time whereof there is no memory, by their Bayliffs have accustomed to make the said S of the liberty aforesaid, not being ignorant, the last day of December, in the yeare of the reign of the Lady Elizabeth, late Queen of England the seventeenth abovesaid, into the Liberty aforesaid, did enter, &c.

Bayliffs and free men of the Towne of K upon Thames, against G and

T. 9. Jac. 3200. P. 41. Eliz. Rot. 33. Earle of W against A enfringing of a Liberty. H. 10. Eliz. Rot. 359. The like M. 4. 1a. Rot. 1980. the S the like,

H 8. 1a. Rot. 2028. Brownlow. Yorke fl. R W late of, &c. G F Admistratr of the Goods and Chattels which were of R F who dyed intestate, &c. of a Plea that whereas the said R F in his life time, that is to say, the first day of June, in the yeare of the reign of the Lord the King that now is the first, at the Castle of Y had put unto the said R W a certaine Horse of the said R F to Pasture with the said R W, so long as it should please both parties.

Notwithstanding the said R W the Horse aforesaid, so evilly and inordinately did use and labour, that the said Horse of the price of twenty pounds, at the Castle of Y aforesaid dyed, to the damage of the said G of forty pounds, and in hinderance of the Administration of the Goods and Chattels aforesaid, &c. And whereupon the said G, to whom the Administration of all the Goods and Chattels which were of the said R F at the time of his death, by the divine providence, the Arch-Bishop and Metropolitan of Yorke, the eight and twentieth day of October, in the yeare of our Lord 1693; at the Castle of Yorke aforesaid, after the death of the said R F was committed, by R F his Attorney complaineth, that whereas the said R F in his life time the first day of June in the yeare of the reign of the said Lord the King that now is the first, at the Castle of Yorke, had put unto the said R W a certain Horse of the said R F to Pasture, with the said R W so long as it should please both the said parties.

Notwithstanding the said R W, the Horse aforesaid, so evilly and inordinately did use and labour, that the said Horse of the price, &c. at the Castle of Yorke aforesaid, dyed, to the damage of the said G of forty pounds, and in hinderance of the Administration of the Goods and Chattels aforesaid, &c. And thereof he bringeth his Sute, &c. and bringeth here into Court the Letters Administratrix of the said Arch-Bishop, which testifie the commitment of the Administration aforesaid, in forme aforesaid, &c.

Defendant pleads not guilty.

T Rim. 13. Jac. rot. 678. Brownlow. T. G late of, &c. T T Gent. &c. And whereupon the said T by T H his Attorney complaineth, that whereas the said T G the fourteenth day of Jan. in the year of the reign of the Lady Elizabeth late queen of England, at F, in consideration that the said T T at the special instance and request of the said T G would lend unto the said T G sixty pounds of lawful money of England, did assume upon himself, and to the said T T then and there faithfully promise, that he the said T G the same sixty pounds unto the said T T, when he should be thereunto required, well and faithfully would pay and content.

And although the said T T upon confidence of the faithful promise and assumption of the said T G aforesaid, afterwards, that is to say, the same fourteenth day of Jan. in the two and fortieth year abovesaid, at F aforesaid did lend unto the said T G the said sixty pounds.

Notwithstanding the said T G his promise and assumption aforesaid little regarding, but meaning him the said T T of the said sixty pounds craftily and subtilly to deceive and defraud, the said sixty pounds unto the said T T, accor-

Trespasse on the case, for ill usage, and extraordinary labour of a horse brought against the party which had him to depasture, &c. brought by an Administrator.

The count.

Sheweth the Letters of Administration.

Trespasse on the case upon lone of monies.

ding to the promise and assumption aforesaid of the said T G, although to be the same by the said T T afterwards, that is to say, the twelfth day of April, in the year of the reign of the said King the thirteenth at F aforesaid was required, hath not paid, but the same to him the said T T to pay hath refused, and as yet doth refuse, to the damage of the said T T of one hundred pounds. And thereof he bringeth his sute, &c.

Defendant pleads, that he did not assume.

The Jurors assesse one hundred and twenty pounds damages.

Solicitors Fees. M 42. and 43. Eliz. rot. 1319. Case brought by P K an Attorney for fees as a Solicitor.

Barretor. T 39. Eliz rot. 1348. Trespafs on the Case for inditing the Plaintiff before the Justices of the peace for a common Barretor.

Easter 12. H 8. rot. 309. The Plaintiff delivered to the Defendant (being a common Carrier) at London divers goods to be carried to Cant. and the Defendant lost them at Cambridge.

Trespafs on the case brought by a Copyholder against his Lord and others, for that the Lord cut down all the Trees growing upon the customary Tenements of the Plaintiff, where by he had not sufficient to cut for reparations or for Fuell, or other necessities, according to the custome of the Mannor.
Grant of the Copyhold Estate.

Copyholder enters.
Custome of the Mannor that the Copyholder might lop the Trees growing upon the customary Tenements, and to cut down Trees growing to repair those customary Tenements.

TRin. 13. Jac. rot. 693. Brownlow. Suff. ff. T C the younger, late of, &c. I F late of, &c. and T A late of, &c. were attached to answer I F of a Plea, that whereas, &c. And whereupon the said I F by N A his Attorney complaineth, that whereas the said T C of late had been, and as yet is, seised of and in the Mannor of H, with the appurtenances, in the County aforesaid, whereof one Messuage called S, and eleven acres and an half of Lands, and three roods of Meadow, with the appurtenances, unto the said Messuage belonging and appertaining in H aforesaid, from the time whereof the memory of man is not to the contrary, were, and as yet are parcel, in their Demesne as of fee, which said Tenements, with the appurtenances, are, and from the whole time aforesaid were, customary Tenements of the same Mannor, and demised and demisable by copy of the Rolls of the Court of the said Mannor by the Lord of the said Mannor, or by his Steward of the same Mannor, to whatsoever person or persons are willing to take the same in fee simple, or otherwise, at the will of the Lord, according to the custom of the said Mannor.

And the said T C of the Mannor aforesaid, with the appurtenances, in form aforesaid being seised, the said T C at the Court of the said T C of his Mannor aforesaid holden at that Mannor, on Monday the three and twentieth day of October, in the year of the reign of the Lord the King that now is, of England the seventh, before M D Esquire, then his Steward of the Mannor aforesaid, by his then said Steward, by copy of the Rolls of the Court of the said Mannor, did grant unto the said I F the Tenements aforesaid, with the appurtenances, to have and to hold unto the said I F his Heirs and Assignes at the will of the Lord, according to the custom of the said Mannor, by the rent and services thereof first due, and of right accustomed, by virtue of which grant the said I F into the Tenements aforesaid, with the appurtenances, did enter, and was, and as yet is, thereof seised in his Demesne as of fee, at the will of the Lord, according to the custom of the said Mannor.

And whereas also within the said Mannor there is had, and from the time whereof the memory of man is not to the contrary, there was had a custom used and approved, that is to say, that every customary Tenant of any Messuages, Lands, or customary Tenements of the said Mannor holden by copy of the Rolls of the Court of the said Mannor did cut off and take, and from the whole time abovesaid did accustom to cut off and take the boughs of whatsoever trees and woods growing in and upon the said Lands or his customary Tenements, as well for his necessary fuel to burn and expend in his said

said Pessuage, as for the repairing and amending the hedges and fences of the same Lands or Tenements as often as need should require: And also did cut down and take, and from the whole time aforesaid was wont and accustomed to cut down and take any trees in and upon the same Lands and his customary Tenements growing, by the Lord of the Mannor aforesaid, for the time being in this behalf assigned, for the repairing and amending his said Pessuage and other Buildings and Structures to the said Pessuage belonging, as often as need should require.

The said T C, I F, and T A well knowing the premises, but meaning him the said I F in this behalf greatly to oppress, the twelfth day of March, in the year of the reign of the said Lord the King that now is, of England the tenth, four Pollards in and upon a certain Close of Pasture called Crabs, containing four acres in H aforesaid, parcel of the said customary Tenements of the said I F then growing, did cut down, take, and carry away. And afterwards, that is to say, the fifth day of April, in the twelfth year of the reign of the said King, five Ashes, and seven Elmes in and upon the said Close of Pasture, called C, then likewise growing, did likewise cut down, take, and carry away, by reason whereof the said I F the trees aforesaid for the necessary reparation of his said Pessuage, and of others the Buildings and Structures to the said Pessuage belonging. And the boughs of those trees for his necessary fuel in his Pessuage aforesaid to be burnt and expended, or for the repairing and amending the hedges and fences of his Tenements aforesaid, according to the custom aforesaid, could not have, nor can, to the damage of the said I F of twenty pounds, and thereof he bringeth his Sute, &c.

Damage of the Plaintiff.

And the said Defendant by H G his Attorney cometh, &c. And by protestation to the custom of the Mannor. whereof the memory of man is not to the contrary was there had any such custom used and approved, as the said J F above by declaring hath alledged, for plea, &c. Demurre generally upon the Count by Hicham. The Plaintiff joynes in demurrer by Harries Sergeant. Judgment against the Plaintiff, for that the Plaintiff doth not averre that there is not sufficient timber within the Mannor assigned for necessary reparations. Q. the Case.

M²⁰. Jac. rot. 710. Br. Norff. ff. R. against H, Executor of H, Case against an Executor for marriage money to be paid at the day of the death of the Testator.

M². C. rot. 2615. Between H and W the like.

H⁶. Jac. rot. 132. Between B and H.

Trin. 13. Jac. rot. 932. Between E and S.

H¹⁵. Jac. rot. 904. S against S.

Hill. 18. Jac. rot. 616. H against B.

E²¹. Jac. rot. 816. Brownlow. London. ff. J W and A his wife, Administratrix of W T brought an Action upon the Case for marriage money against T T Executor of W T, to be paid upon demand after the marriage.

E²¹. Jac. rot. 814. Brownlow. Leic. ff. Between G Plaintiff and N Administrator of the goods not administered of P, by P widow, Executrix of P not administered, &c. the like Declaration in case for marriage money.

Trespasse on the Case in consideration that the Pl. would marry the Sister of the Defend. he would give him so much money, &c. See afterwards fo. 61. a.

TRin. 31. Eliz. rot. 143. Browker. Suffex. ff. E W late of, &c. I A, &c. And whereupon the said I by W F his Attozney complaineth, that whereas the said E the eleventh day of June, in the three and twentieth year of the reign of the said Queen that now is, in consideration that the said I at the special instance and request of the said E, one K B the Kinswoman of the said E would take to Wife and would marry her, according to the ecclesiastical Laws of this Land of England, did assume upon himself, and to the said I then and there faithfully promise, that he the said E one hundred shillings of lawful money of England unto the said I, at the Feast of, &c. then next following, would pay and content. And although the said I upon confidence of the faithful promise and assumption of the said E aforesaid, afterwards, that is to say, the seventeenth day of June, in the three and twentieth year aforesaid of the said Queen, at F aforesaid, did take to Wife the said K, and her did marry according to the Ecclesiastical Laws of this Land of England.

Notwithstanding the said E his promise and assumption aforesaid little regarding, but meaning him the said I of the said one hundred shillings craftily to deceive and defraud, the same one hundred shillings unto the said I at the said Feast of, &c. did not pay, nor any wages content, although to do the same by the said I he had been often required (as in others) whereby the said I divers gains and profits, which he with the said one hundred shillings in buying, selling, and lawfully bargaining with divers large people of the said Lady the Queen that now is might have gotten, hath totally lost, to the damage of the said I of twenty pounds. And thereof he bringeth Suite, &c.

This latter clause may be omitted. See the like Declaration T 13. Jac. rot. 2014. between C and D.

Barre, that he promised to pay the money in the Declaration mentioned, upon condition that the Plaintiff should assure within convenient time all his lands to certain strangers, to the use of K the Pls. Write in nature of her joynture Payment upon condition. Replication that the Def. did promise, as in the Declaration, &c.

Appd the said E saith, no Action, because he saith, that he the said eleventh day of June, in the three and twentieth year aforesaid of the said Lady the Queen that now is, in consideration that the said I would marry and take to Wife the said K B, did assume upon himself, and unto the said I faithfully promise, that he the said E the said one hundred shillings unto the said I well and faithfully would pay and content, upon condition that the said I within convenient time then next following should convey and assure all his Lands and Tenements whatsoever, with the appurtenances, to certain persons by the said E nominated, to have and to hold unto them, to the use of the said K for term of her natural life for her joynture, without that, that the said E did assume upon himself, and to the said I faithfully promise, in manner and form as the said I by his Writ and Declaration aforesaid above both suppose. And this he is ready to prove, &c.

Judgment if Action, &c.

Appd the said I not to be barred, because he saith, that the said E did assume upon himself, and unto the said I faithfully promise, in manner and form as he by his Writ and Declaration aforesaid above hath supposed: And this he prayeth may be enquired of by the Countrey. And the said E likewise, &c.

See if the Defendant should not have pleaded the Generall Issue.

Case brought by a Chirurgeon for money for the cure of a wound. The consideration.

TRin. 12 Jac. rot. 712. Brownlow, Norwich ff. R. L. late of, &c. was attached to answer J. Q. of a Plea, that whereas, &c. And whereupon the said J. by S. L. his Attorney complaineth, that whereas the said R. such a day and year at N. in consideration that the said J. being a Chirurgeon, at the special instance and request of the said R. would take upon him the cure and healing of the

the left hand of one *J. L.* the naturall Son of the said *R.* sorely hurt with a certain Gun, did assume upon himself, and unto the said *J. Q.* then and there faithfully promise, that he the said *R.* ten pounds of lawfull money of England, unto the said *J. Q.* would pay in manner and form following, that is to say, five pounds thereof then in hand, and five pounds thereof residue, when the said hand of the said *J. L.* by the means of the said *J. Q.* should be healed. And although the said *J. Q.* giving credit to the promise and assumption of the said *R.* afterwards, that is to say, the same fifth day of *March*, in the ninth year above-said, at *N.* aforesaid, at the speciall instance and request of the said *R.* did take upon him the cure and healing of the hand aforesaid of the said *J. L.* so as aforesaid hurt: And although also the said *R.* five pounds of the said ten pounds unto the said *J. Q.* then and there in hand paid; And although also the said hand of the said *J. L.* the twenty eighth day of *March* then next following, by the means of the said *J. Q.* was made whole; notwithstanding the said *R.* his promise and assumption aforesaid, as to the other five pounds, of the said ten pounds residue, little regarding, but meaning and fraudulently intending the same *J. Q.* of the said five pounds residue, crattily to deceive and defraud the same five pounds, of the said ten pounds residue, unto the said *J. Q.* (although to do the same by the said *J. Q.* the nine and twentieth day of *March*, in the year of the Reign of the Lord the King that now is of *England*, &c. the tenth, and often afterwards at *N.* aforesaid was required, hath not paid, but the same to him to pay hitherto hath refused, and as yet doth refuse, whereupon he saith, that he is the worse, and hath damage to the value of twenty pounds, and thereof he bringeth his sute, &c.

The promise of
payment at
two daies upon
contingency.

Wound cured.

Speciall request

And the said *R.* no Action, because by protestation that he did not assume upon himself, as the said *J. Q.* by his Writ and Declaration aforesaid, above doth suppose. For plea the said *R.* saith, that the said hand of the said *J. L.* by the means of the said *J. Q.* was not made whole, as the said *J. Q.* by his Writ and Proclamation aforesaid above doth suppose: And this, &c. Judgment if Action, &c.

Bar by protesta-
tion that he did
not assume; for
plea, that the
wound was
not healed by
means of the
Plaintiff.

And the said *J. Q.* not to be barred, because he saith, that the said hand of the said *J. L.* by the means of the said *J. Q.* was made whole; that is to say, at *N.* aforesaid, as the said *J. Q.* above against him doth complain: And of this he prayeth, &c. The Jurors say, that the hand of the said *J. L.* by the means of the said *J. Q.* was made whole at *N.* aforesaid, in manner and form, &c. Judgment for the Plaintiff, damages twelve pounds ten shillings, Defendant in mercy.

Replication
that the wound
was healed by
the means of
the Plaintiff.

Rin. 13. *Jac.* rot. 1058. *Waller.* *Dorf.* ff. *T C* late of, &c. was attached to answer *H F* of a Plea, that whereas, &c. And whereupon the said *H* by *W R* his Attorneys complaineth, that whereas the said *T* the three and twentieth day of *March*, in the year of the reign of the Lord the King that now is, the tenth, at *S.* in consideration that the said *H* would suffer the said *T* peaceably and quietly to have, occupy, and enjoy one Close of Land, with the appurtenances, in *R* in the County aforesaid, called *W*, from the five and twentieth day of *March* then next following, until the Feast of *St. Michael* the Archangel then next following, did assume upon himself, and unto the said *H* then and there faithfully promise, that he the said *T* would pay unto the said *H* fifty shillings of lawfull money of England upon the Feast of *St. James* the Apostle then next following, after the promise and assumption aforesaid, as aforesaid made. And although the said *H*, upon confidence of the faithful performance of the promise of the said *T*, did suffer the same *T* peaceably and quietly to have, occupy and enjoy the said Close of Land, called *W*, from

Trespass on
the Case in
consideration
that the Pl.
would permit
the Defend. to
enjoy such a
Close from
such a day to
such a day the
Defend. would
pay unto the
Plaint. such a
sum of money.

from the said five and twentieth day of March, until the said Feast of St. Michael the Archangel then next following.

Notwithstanding the said T his promise and assumption aforesaid little weighing, but meaning and intending him the said H in this behalf craftily to deceive and defraud, the said fifty shillings unto the said H, according to his promise and assumption aforesaid, although he hath been often thereunto required, hath not paid, but the same to him to pay hath altogether refused, and as yet doth refuse, to the damage of the said H of forty pounds, and thereof he bringeth his Sute, &c.

Barre, that the Plaintiff at another time did declare against the Defendant for the same moneys in the Common Bench, upon an account together, and that the Defendant waged his law after effoine as, &c.

Recital of the original Writ.

And the said T by N P his Attorney cometh, &c. no Action, because he saith, that otherwise, that is to say, in the Term of St. Michael, in the year of the reign of the Lord the King that now is, the eleventh, the said H did prosecute out of the Court of Chancery of the said Lord the King at Westminster then being, in the County of Middlesex, a certain original Writ of the said Lord the King, of a debt of ten pounds against the said T, by the name of T C late of C, in the County aforesaid Gent. directed to the then Sheriff of Dorset, by which said Writ the said Lord the King did command the same then Sheriff, that the said then Sheriff should command the said T, that justly and without delay he should then render unto the said H ten pounds and ten shillings which he then owed and unjustly detained, as he then had said, and unless he should do it, and the said H should make him the said then Sheriff security of prosecuting his complaint, then the said Sheriff should summon by good summoners the said T, that he should be before the then Justices of the said Lord the King of the common Bench here, that is to say, at Westminster aforesaid, in eight dayes of St. Martin then next following, to shew wherefore he would not do it: And that the said then Sheriff should have then here the Summoners and that Writ: At which said eight dayes of St. Martin, before H H Knight and Barronet, and his fellowes, then Justices of the said Lord the King of the Common Bench here, that is to say, at Westminster aforesaid, came as well the said H by W R his Attorney, as the said T by N P his Attorney: And I S Knight, then Sheriff did return the said Writ in all things served and executed, that is to say, that the said H had found to the said then Sheriff pledges of prosecuting his said Writ, that is to say, I D, and R R.

And that the said T had nothing in his Baylywick whereby he could then be summoned: And hereupon the said H declaring against the said T of and upon his said Writ, then said, that whereas the said T the twentieth day of March, in the year of the reign of the Lord the King that now is, the tenth, at S had borrowed of the said H eight pounds of the said ten pounds and ten shillings, to be paid unto the said H the third day of May then next following, and also whereas the said T the six and twentieth day of May, in the year of the reign of the said Lord the King that now is the eleventh at S aforesaid, had accounted together with the said H of divers sums of money of the said H by the said T unto the said H before due, and upon that account the said T had been found in arrearages towards the said H in fifty shillings, whereby Action did then accrue unto the said H, to have and require of the said T the said fifty shillings of the said ten pounds and ten shillings residue.

Notwithstanding the said T although often required, the said ten pounds and ten shillings unto the said H, then did not pay, but the same to him until then to pay had denied, and then did deny, whereupon he then said he was the worse, and had damage to the value of ten pounds, and thereof then he brought his Sute, &c.

Count arrears upon the account together

Action accrued.

Entry of the Imparlance.

And the said T by his then said Attorney, did then defend the force and wrong, when, &c. and then prayed leave to imparle here, that is to say at Westminster

Westminster aforesaid, until in eight dayes of St. Hillary, and he then had it, &c. the same day was then given unto the said H here, &c. At which day before the said H and his fellows, then Justices of the said King of the Common Bench here, that is to say, at W aforesaid, cometh as well the said H as the said T by their Attorneys aforesaid.

And hereupon the said H as at first declaring against the said T upon the writ aforesaid, by the said H in form aforesaid brought, did say, that the said T unjustly detained from the said H the said ten pounds and ten shillings for that, that is to say, that whereas the said T the twentieth day of March, in the year of the reign of the Lord the King that now is, the tenth, at S, had borrowed of the said H eight pounds of the said ten pounds and ten shillings to be paid unto the said H the third day of May then next following.

And also whereas the said T the twentieth day of March, in the year of the reign of the said Lord the King, the eleventh, at S aforesaid had accounted to gether with the said H of divers sums of money of the said H by the said T unto the said H before due. And upon that account the said T had been found in arrearages towards the said H in fifty shillings, whereby action did then accrue unto the said H, to require and have of the said T the said fifty shillings residue of the said ten pounds and ten shillings.

Notwithstanding the said T, although often required, the said ten pounds and ten shillings unto the said H did not then pay, but the same unto him untill then to pay had denied, and then did deny, whereupon he then said, that he was the worse, and had damage to the value of ten pounds, and thereof then he brought his suit, &c.

And the said T then and there by his said Attorney then defended the force and wrong when, &c. and then said, that he did not owe unto the said T the said ten pounds and ten shillings, nor any penny thereof, in form as the said H as bove against him had declared. And this then he was ready to defend against him and his Sute, &c., as the Court of the said Lord then King here should then consider: Wherefore it was then considered, that the said T. should wage to him his Law himself, with a twelfth hand, &c. Pledges of his Law J.D.R.R. And let him come with his Law from Easter day, in fifteen daies, &c. And then it was said to the said Attorney of the said T. that he should then have here the same T. his Clyent, in his proper person, to perfect his Law aforesaid, if, &c.

At which day here came the said H by his said Attorney: and the said T caused himself to be Essoined, for his not coming against the said H of the said Plea; And he had then thereof the said day by his Essoyn here, untill that day, that is to say, from Easter day in five weeks then next following. And then here at that day cometh as well the said H by his said Attorney, as the said T in his proper person: And hereupon the said T then did perfect thereof his Law with a twelfth hand, as the same above he waged; Wherefore then it was considered, in the same Court, that the said H should take nothing by his said writ, but should be in mercy for his false Sute: And that the said T should goe thereof without day, &c. as by the Record and Proses thereof in the Court of the said Lord the King here remainning, manifestly appeareth.

And the said T saith, that the said fifty shillings, so to the said H by virtue of the said account supposed to be due, and in the War aforesaid specified: And the said fifty shillings in the Declaration aforesaid above specified, are one and the same debt, not other, or divers. And that the said T in the War aforesaid specified, and the said T in the Declaration above specified, is one and the same person, and not other, or divers: And this he is ready to prove, whereupon he prayeth Judgment, if Action, &c. See in Little Debt, fol. 23. b. for the like War, 35 H. 8. b. new Cases Pl. 267. agree.

Court after Imparlance.

Mutation.

Upon account altogether.

Wager of Law. Day given of waging Law.

Essoin is cast for the Defendant. Adjournment of the Essoyn.

Law perfected. Judgment that the Plaintiff take nothing by his Writ.

Averment that the Debt in the count upon the account together and the sence in that account are one and the same, and that he is the same person.

And son

T. 7. Fitz. rot.
1178. The libe
bar in debt on
Emisset, and
replication
that it is ano-
ther contract,
without that,
that, &c. are
one and the
same contract.
Replication
that the debts severall, and traverse that they are one entire debt.

And the said H saith, &c. not to be barred, because he saith, that the said fifty shillings unto the said H by vertue of the account aforesaid supposed to be due; And the said fifty shillings in the Declaration aforesaid above specified, are other and divers debts; without that, that the said fifty shillings by vertue of the said account supposed to be due, and in the Bar aforesaid above specified: And the said fifty shillings in the Declaration aforesaid above specified, are one and the same debt, as the said T. above hath alledged: And this he is ready to prove whereupon he prayeth Judgment and his Damages, by occasion of the Premises to him to be adjudged. &c.

Recjoinder
that the debts
are one and
the same debt,
as, &c. iss. e
thereupon.

And the said T as at first saith, that the said fifty shillings by vertue of the account aforesaid supposed to be due, and in the Bar aforesaid above specified. And the said fifty shillings in the Declaration aforesaid above specified, are one and the same debt, as he hath above alledged: and of this he putteth himself upon the Country, and the said H likewise; Wherefore twelve, &c.

Trespass on the
Case for exerci-
sing an Office,
and taking the
fees thereof by
force, against the
will of the Of-
ficer. See Co. 9.
f. 42. this at
large reported.
See after, f. 62.
a.
Grant by Let-
ters Patents of
the Office from
the time passed
for life.
H. 3. 4. rot. 126.
Br. Trepass up-
on the case for
disturbance of a
Faive.

Trin. 7. 7th ac rot. 2612. Brownlow Nott. ff. R. S. late of &c. and T. W. late of &c. were attached to answer R. Earl of R. of a Plea, that whereas, &c. And whereupon the said Earl by J. M. his Attorney, complaineth, that whereas the said late Queen the said fourteenth day of June, in the two and fortieth year of her Reign, at Westminster aforesaid, by her Letters Patents which the said Earl under the great Seal of the said late Queen of England, sealed, bringeth here into Court, the date of which is the same day and year, did give and grant unto the said Earl, from the time of the full age of the said Earl of one life of the said Earl, the said Offices of a Steward of the said Dominions or Mannors of the said late Queen of M. B. and H. with the same Offices of old due and accustomed to be had and yearly received, the said Fees during the term aforesaid, of the issues, profits, farmes, and revenues of the said Dominions or Mannors, by the name of the Farmers of the Receivers, or of other the Occupiers of the same for the time being, at the said Feasts of S. Michael the Arch-angel, and of Easter, by equall portions, together with all other profits, rights, commodities, jurisdictions, priviledges, prebeminencies, and emoluments, to the said Offices coming, or in any manner belonging. And whereas the said Earl before the making of the said Letters Patents, that is to say, the said nineteenth day of Novem. in the year of the Reign of the said Lady the Queen the fortieth above said, had attained to his full age of one and twenty years, and by vertue of the said Letters Patents, had been seized of the said Office of Steward of the said Mannor of M. as of his free Tenement for the term of his life, and that Office from the said fourteenth day of June, in the year of the Reign of the said late Queen the 42. above said, by one whole year then next following, well and faithfully had exercised, and the fees and profits of the said Office of Steward of the said Mannor of M. of ancient due and accustomed by the said time had and received: The said R. and T. meaning, him the said Earl greatly to disturb in the exercise of the said Office of Steward of the said Mannor of M. and the same Earl of the fees and profits, that is to say, of a hundred shillings yearly for his fees, for exercising of the said Office of Steward of the said Mannor of M. to be paid, and of the ancient fees due for entring of Plaints and Pleas for Copies of the Rolls of Court for Replevins, for proving of Testaments and Commission of Administrations of whatsoever persons within the said Mannor of M. dying, for entring of Surrenders and admission of every Tenant of the said Mannor of M. for entring of the Fealty

Fealty of every Tenant of the same Mannor of *M.* making Fealty, which of right he should and ought to have and receive, wholly to frustrate and hinder, of his own proper wrong, without any right or lawfull authority or licence of the said Earl, the said sixteenth day of *Feb.* in the year of the reign of the said late Queen the fourteenth abovesaid, at *M.* aforesaid, the said Office of Steward of the same Mannor of *M.* have exercised, and from thenceforth hitherto do exercise and occupy: And all and singular the Fees, Commodities, and Profits, unto the said Office due, and by reason of the exercising of the same Office within the said Mannor of *M.* aforesaid, of right belonging, to their own proper use have, had, received: And the same Earl to exercise that Office within the said Mannor of *M.* and the Fees, Commodities, and Profits to the said Office of right belonging, and from the whole time whereof the memory of man is not to the contrary, to have and receive with force and armes, &c. then and there have hindered, and as yet do hinder, whereupon he saith, that he is the worse, and hath damage to the value of a hundred pounds, and thereof he bringeth his suite &c. The Defendant pleads not guilty of the Trespasse aforesaid, as, &c. The Jury bring in a speciall Verdict, Judgment for the Plaintiff, and Error thereupon. See *Co. 9. fol. 42.* this President with the Record and the Case reported with it.

Disturbance in the exercising the Office.

M. 19 Jac. rot. 1719. Br Oxon. M. against S. Case in nature of Debt brought by a Tutor in Oxon. against a Schollar, for Fees for Tutorship, and monies for expences.

Easter 38 Eliz. rot. 1652. W. against S. Case brought for suing out execution after a Writ of Error allowed, and before the Record removed.

HII. Ja. Rot. 1924. Brownlow. Suff. ff. IS late of, &c. R S, &c. And whereupon the said R by T F his Attorney complaineth, that whereas in the Parliament of the Lady Eliz late Queen of England, holden at Westminster in the County of Midd. in the three and fortieth yeare of her reign, amongst other things, it was ordained and enacted by the authority of the same Parliament, that the Guardians of the Church of every Parish, and four, three, or two substantiall fathers of Families there, as should be thought fit, having respect to the proportion, and greatnesse of the same Parish or Parishes yearly, to be named in every week of Easter, or within one moneth after Easter, under the hands and seals of two or more of the Justices at Peace in the same County, whereof one of them should be of the place of which the Inhabitants, in or neare the same Parish or Division, where that Parish should lye, should be called Overseers of the poore of the same Parish, & they or the major part of them should take order from time to time, by, & with the consent of two or more of the like Justices at peace as aforesaid, for setting to worke of all such Children, whose Parents by the Guardians & Overseers aforesaid, or the major part of them, should not be thought able to keep and maintaine their Children, and also for the setting to worke of all such persons married or unmarried, having no way to maintaine them, or those who should not use any ordinary or dayly trade of life, whereby they might get their living, and also to raise weekly, or otherwise, by tax of every Inhabitant, Parson, Vicar, and others, and of every occupier of Lands, Houses, Withes impozable, or of the Withes of Cole-mines, or of saleable Woods in the said Parish, in such competent sum and sums of money, which unto them might seem a convenient stock of Flax, Cotton Woll, Thread, Iron, and of other necessary rewards, and Stuff for setting the Poore on worke, and also competent sums of money, for and towards the necessary releif of the lame, impotent, old, blind, and such others amongst them, being Poore, and not able to worke: And also for the putting out of such Children to be Apprentices.

Trespass on the case against the Overseers of the poor men, brought for sitting a Distress, for not payment of monies taxed by them for the releif of the poor men of the Parish, and not restoring to the Plaintiff the residue of the monies above the monies taxed.

43 Eliz. Rot. 838. new statutes T. 14. 12. rot 3270. between H. & S. Recital of the branch of the act of Parliament.

Recitall of
another clause
of the Act.

The surplusage to be
paid, the
owner by the
Statute.

Overseers appointed by
two Justices
one of the
Quor, dwelling
within the Division.
The Plaintiff
was taxed by
the Overseers
at nine pence
themoneth,
towards the
relief of poor
men.

Plaintiff further
saith, that
at the time
of appointing
new Overseers
he had in arrears
in his hands four
shillings six
pence, and affirmeth
that he intended
to pay those
new Overseers
upon demand,
and further
affirmeth, that
those Overseers
never demanded the
arreages.

The Plaintiff
affirmeth that
he was possessed of Cattel
of such value, whereof the Best of the least value was sufficient to pay the arreages.

tices, to be gathered out of the same Parish, according to the ability of the same Parish, and to doe and follow all other things, as well for the disposing of the said stock, as otherwise it shall seem unto them, concerning the same, convenient: And further amongst other things it was enacted by authority of the same Parliament, that it should be lawfull as well for the present as subsequent Guardians and Overseers or any of them, by the warrant of any two such Justices at peace, to levy the said sums of money, and all arreages of every one which should refuse to contribute according to what he should be taxed, by distress and sale of the goods of the offender, rendering to the parties the overplus thereof, as in the said Statute is more fully contained.

And the said RS further saith, that in the week of Easter in the yeare of our Lord 1610. SL and GS were Guardians of the Parish Church of Min the County aforesaid, and HE and RW, substantiall fathers of families, of the same Parish in the same week of Easter, in the yeare of our Lord 1610. abovesaid, by HG Knight, one of the Justices of the said Lord the King, for keeping the peace in the County aforesaid, and of the Duoz. within the same County being, and IT Esquire, another of the Justices of the said Lord the King for keeping the peace in the County aforesaid, inhabiting within the Division where the said Parish of M aforesaid is situated, that is to say, the said W at R in the County aforesaid, and the said IT at H in the County aforesaid, were nominated and appointed under their hands and seals in writing, together with the said Guardians of the said Church to be Overseers of the Poore of the same Parish for one yeare then next following, by which said Guardians and Overseers, so as aforesaid named for having a competent sum of money, for the necessary relief of the lame, impotent, old, blind, and of other Poore within the same Parish, not being able to worke, the said RS being one of the Inhabitants within the same Parish then and there was taxed to pay every moneth during that yeare nine pence, and that in the week of Easter in the yeare of our Lord 1611. the said SL and HE were Guardians of the said Church and one IW, and the said IS substantiall fathers of families within the said Church then and there by the said HG Knight, and IT Esquire, then Justices of the said Lord the King being of the peace, and inhabiting within the Division aforesaid (the said H then being of the Duoz. within the said County as aforesaid, were nominated and appointed under their hands and seals in writing, together with the said SL and HE Guardians of the said Church to be Overseers of the Poore within the said Parish for one yeare then next following, and the said RS further saith, that he, the said time in which the said IW and JS, together with the said SL and HE Guardians aforesaid, were Overseers of the Poore of the said Parish, and after that they as aforesaid were Overseers of the Poore of the same Parish, he had in his hands then and there remaining unpaid four shillings and six pence, for six moneths past, upon him as aforesaid, in the yeare of our Lord 1610. abovesaid taxed, and the said year payable, which said four shillings six pence, although the said RS unto the said HE, SL, IW, and IS, or to any of them upon their or any of their reasonable demand thereof, did intend faithfully to pay, and although the said HE, SL, IW, and IS, nor any of them, the said four shillings six pence of the said RS did ever demand.

And although also the said RS alwayes from the time of the nomination and appointing of the said IW, and IS, together with the said HE, and SL, Guardians aforesaid, to be Overseers of the Poore of the said Parish, untill the first day of Iuly then next following, was possessed of three Sheep,

two Hogs, two Calves, one Heffer, and twenty five Cows, as of the proper Goods and Chattels of the said R S, that is to say, within the said Parish of M aforesaid, of which said Cattell the least in value was then sufficient, whereof the said H E, S L, I W, and I S, or any of them, might have made and leyed the said four shillings and six pence, by distresse and sale thereof.

The grievance, that the Defendant and a

stranger conspire for the taking the best beasts of the Plaintiff, and to sell by colour of his office to the stranger for a small value, whereas it is worth six pounds, and I offered four pounds for it, the Defendant sold the Cow for fifty three shillings four pence, and did not render the overplus.

Notwithstanding the said I S meaning, and fraudulently intending, not only to pervert the good intent of the said Statute, but also him the said R S greatly and unjustly to grieve and oppresse, and divers sums of money from the same R S, fraudulently and deceitfully by colour of his office, to extort, make benefit, and a great part thereof between him the said J, and one E M, to divide and part, and the residue thereof, to the proper use and commodity of the said I to convert, the first day of June, in the yeare of the reign of the Lord the King that now is of England the ninth, at M aforesaid, by conspiring with the said E M, to buy of the said I the best and principallest Cow of the said R S for fifty three shillings four pence, the same best and principallest Cow of the said R S then being of the price of six pounds, for the distresse to be had for the said four shillings six pence by fraud and covin, by colour of his said Office, from all the other Cows and Cattell of the said R S did chose and distaine, and the same unto the said E M for fifty three shillings four pence, then and there did sell and deliver, although one W S before that sale made, that is to say, the said first day of June in the ninth yeare abovesaid, at M aforesaid, the Cow aforesaid of the said I would have bought, and eighty shillings of lawfull money of England unto the said I, for that Cow then and there without fraud or deceit, did offer to give and pay, upon which said sale of the said Cow, for the said fifty three shillings four pence in forme aforesaid made, the said H forty eight shillings ten pence, being the overplus thereof unto the said R, according to the true intent of the said Statute hath not delivered, although to doe the same, afterwards, that is to say, the first day of July, in the yeare of the reign of the said Lord the King that now is the tenth, at M aforesaid, by the said R S was required, but the same to him to deliver hath altogether refused, and as yet doth refuse, and the same to the proper use and commodity of the said I, hath put and converted; whereupon the said R in fact saith, that the said I by the said sale of the Cow aforesaid, so by fraud and covin, by colour of his office aforesaid, as aforesaid made, not only the said forty eight shillings and ten pence of the overplus aforesaid, by him in forme aforesaid detained, but also sixty six shillings and eight pence of lawfull money of England, in the price or value of the Cow aforesaid, upon the said fraudulent sale thereof, then and there from the said R S hath gained, and fraudulently extorted, to the damage of the said R S of forty pounds, and thereof he bringeth his Sute, &c.

Conspiracy.

The distresse taken by the Overseers for arrearages. Sale of the distresse for fifty three shillings four pence.

I S offers four pounds for the distresse before sale. The Overseer doth not render the overplus. Special request.

Averment of the sale to be fraudulent.

AND the said I by W P his Attorney, cometh and defendeth the force and wrong when, &c. and as to the whole matter aforesaid, in the Declaration above specified, except the not delivering of the said forty eight shillings and ten pence, being the overplus of the said fifty three shillings six pence, out of the sale of the said Cow, saith, that he is in no wayes thereof guilty, as the said R above thereof against him doth complaine, and of this he putteth himself upon the Country, & the said R thereof likewise, & as to the not delivering the said forty eight shillings & ten pence unto the said R S, he saith, that the said R his Action aforesaid thereof, against him ought not to have because he saith, that he after the sale and delivery of the said Cow, that is to

Bar for part not guilty, for the residue the Defendant pleads tender of the overplus, and that the Plaintiff refused.

Tender of the
arrears.

Refusal of
the arrears.

Replication
that the De-
fendant did
not tender, &c.

Issue.

Ven. fac. a-
warded on
two issues.

Trespass on the
case against
Butcher, &c.

Lease for years
to the Plaintiff.

Entry of the
Lessee.

The Defendant
was possessed of
a Slaughter-
house and Back
side adjoining to
the Messuage
and Back-side
of the Plaintiff.
The grievance
of the Plaintiff.

The annoyance
in raising the
Back-side of the
Defendant higher
than it was
before, and mak-
ing a Gutter therein, whereby the garbage and blood, and other filthiness runneth into the back-side of the Plaintiff.

say, the first day of June, in the ninth yeare abovesaid; at M. aforesaid offer to pay unto the said R the said forty eight shillings and ten pence, being the overplus of the said fifty three shillings six pence out of the sale of the said Cows, according to the forme of the said Statute, which said forty eight shillings and ten pence, the said R of the said J to receive, then and there attorne ther refused, and this he is ready to prove, whereupon he prayeth Judgment if the said R his Action aforesaid; thereof against him ought to have, &c.

AND the said R as to the said Plea of the said J, as to the not delivering of the said forty eight shillings and ten pence, being the overplus of the said fifty three shillings six pence out of the sale of the said Cows, above said Bar pleaded saith, that he by any thing in the same Plea alleaged, ought not to be barred from having his said Action thereof, because he saith, that the said I did not offer to pay unto the said R S the said forty eight shillings and ten pence, in manner and forme as the said I hath above alleaged; and that he prayeth may be enquired of by the Country, and the said Likewise, therefor soe as well to try this issue as the aforesaid other issue above joyned, it is commanded the Sheriff that he cause to come, &c. This issue was tried and verdict and Judgement for the Defendant upon the proof.

H 44 Eliz. rot. 1844. *Browker, Midd. ss. N. R.* late of, &c. was attached in answer T. N. of a Plea, that whereas one R. C. had been seised of one Messuage, with the Appurtenances, in the said Parish of M. and of and in one Yard adjoining to the said Messuage, and in one Garden, with the Appurtenances adjoining to the said Yard, in the Parish aforesaid, in his Demesne as of Fee: And being thereof so seised, the said R. the sixteenth day of March, in the year of the Reign of the said Lady the Queen that now is the two and twentieth, at the Parish aforesaid, had demised unto the said T. the Tenements aforesaid with the Appurtenances, to have and to hold unto the said T. his Executors and Assignes, from the Feast of the Annunciation of the blessed Virgin Mary, then next following, untill the end and term of one and twenty years from thence next following, and fully to be completed and ended; By virtue of which Demise the said T. immediately after the said Feast of the Annunciation of the blessed Virgin Mary, into the Tenements aforesaid with the Appurtenances did enter, and the same Tenements with the Appurtenances, from the Feast aforesaid, untill the twenty fourth day of March, in the year of the Reign of the said Lady the Queen that now is, the forty third, had and occupied. And whereas also the said N. the nineteenth day of May, in the eight and thirtieth year of the Reign of the said Queen, and alwaies afterwards, untill the four and twentieth day of March, in the three and fortieth year abovesaid, had and occupied in his own proper possession, one house called a Slaughter-house, and a Back-side, with the Appurtenances, in the said Parish near adjoining to the Messuage and Back-side aforesaid; into the possession of the said T. as aforesaid, as being on the west part of the said N. meaning, and maliciously intending unto the said T. great displeasure and disprofit to do, and him the said T. of the Commodity, use, and profit of his Back-side and Garden aforesaid, wholly to deprive and hinder; the said N. the nineteenth day of May, in the eight and thirtieth year abovesaid; at the Parish aforesaid, the said Back-side of the said N. did raise in a greater height than before had been, and a certain Gutter in the said Back-side of the said N. falling, and the blood of Oxen and of other Cattell by him the said N. in the said house killed, and the dung filth and garbage of the said Oxen and Cattell so killed, and other filthiness in the said Back-side of the said N. caused pour from the same back-side of the said N. into the back-side of the said T. and making a Gutter therein, whereby the garbage and blood, and other filthiness runneth into the back-side of the Plaintiff.

from

from thence into the Garden of the said T. And the said T. in fact saith, that the said N. the said 19. day of *May*, in the 38. year above said of the said Queen, and alwaies afterwards, until the said 24. day of *March*, in the three and fortieth year above said, was a Butcher, and by that time did kill many Oxen and other Cattell in the said house of him the said N. and likewise from time to time, the dung, filth, and garbage, and blood of those Oxen, and Cattell so killed, and other filchinesse in the said Back-side of the said N. in great abundance and quantity did cast and put, so that by reason of the raising of the said Back-side of the said N. and making of the Gutter afore said, as well the rain water in the said Back-side of the said N. within the time afore said falling, as the blood of the Oxen and Cattell afore said, and the dung, filth, and garbage of the same Oxen and Cattell in the said Back-side of the said N. within the time afore said, cast and put as afore said, by the overflowing of that water and blood from the said Back-side of the said N. into the Back-side of the said T. and from the same Back-side of the said T. into the Garden of the said T. have run and overflowed, and the said Back-side and Garden of the said T. have drowned, and a filthy smell, and unwholsome aire there by reason of the corruption of the blood and garbage afore said, by a great time were raised, and remain in the state of the said T. passing and running in his Garden and Back-side afore said, by the said time, to the great prejudice insufferable disprofit, and the manifest danger of his life. And the said T. by reason of the overflowing afore said, the whole use, commodity, and profit of his Back-side and Garden afore said, by a great time hath lost, to the damage of the said T. of forty pounds, and thereof he bringeth his Sute, &c.

M. 43, & 44 E.
liz. rot. 651.
M. 12. Jac. rot.
509 H. 12. Jac.
rot. 4. i. T. 12.
Jac. rot. 1759.

See Easter 12
H. 8. rot. 316.
Case brought for
the like Nu-
sance.

And the said N. by G. M. his Attorney, cometh and defendeth the force And wrong when, &c. And as to the raising of the said Back-side of the said N. and the putting and casting of the dung, filth, and garbage, and blood of Oxen, Cowes, Heifers, Steers, Calves, Sheep, and Hogs in the said Back-side of the said N. above supposed to be done, the said N. saith, that he is in no wise thereof guilty, as the said T. above thereof against him doth complain: And of this he putteth himself upon the Country, and the said T. thereof likewise. And as to the making of the said Gutter of new, in the said Back-side of the said N. above supposed to be done, the said N. saith, that the said T. ought not to have his said Action against him, because he saith, that before the said time in which it is supposed the making of that Gutter of new in the said Back-side of the said N. above to be done, H. H. and E. C. were seised of and in the house and Back-side afore said, now in the possession of the said N. as afore said, being with a certain Gutter in the same Back-side, in his Demesnes of Fee, near adjoyning to the Messuage and Back-side afore said of the said T. And to thereof being seised, the said H. and E. the fifteenth day of *Febr.* in the year of the Reign of the said Lady the Queen that now is the thirty sixth, at the said Parish of M. did demise unto the said N. the house, Back-side and Gutter afore said, in the possession of the said N. as afore said, being, with the Appurtenances, to have and to hold unto the said N. and his Assignes, from the Feast of the Birth of our Lord then last past, unto the end and term of forty years from thence next following, fully to be compleat and ended; By virtue of which Demise the said N. into the same Tenements with the Appurtenances did enter, and was, and as yet is thereof possessed. And the said N. further saith, that he the said N. so of the house, Back-side, and Gutter afore said, to him as afore said demised, being possessed, the Gutter afore said, after the Demise afore said, unto the said N. in form afore said made, and before the said time in which, &c. was in decay and broken, for want of Stones, Tiles, and Lime of the pavement thereof, whereby the said N. afterwards, that is to say, the afore said time in which, &c. the same Gutter with Tiles

The Defendant
pleads in Bar
that stranger
was seised in
fee of the Mes-
suage and Back-
side.

Lease to the De-
fendant, had
from a day past.

*Replication of
the Gutter.*

*Prescription for
passage for the
gutter.*

Tiles, Stones, and Lime of new did repair and amend, to convey as well the raine-water from time to time falling from the Messuage of the said *T.* into the Backside of the said *N.* as other water distilling and falling in that Backside by the Gutter aforesaid, and from the same Backside into the common Sewer in the Parish aforesaid. And the said *N.* further saith, that the said *H.* and *E.* and all those whose Estate said *H.* and *E.* have in the house, backside, and gutter aforesaid, to the said *N.* so as aforesaid demised from the time whereof the memory of man is not to the contrary, have had and were accustomed to have for themselves, their Tenants, and Farmers of that house and backside, a certain Water-house or passage leading and running from the said house of the said *N.* in, by, and through the said backside of the said *N.* and from the same backside of the said *N.* in, by, and through the said backside and Garden of the said *T.* and from the same backside and Garden of the said *T.* unto, and in the common Sewer aforesaid next adjoining to the said Garden of the said *T.* in the said Parish of *M.* to convey as well the rain-water from time to time, into the said backside of the said *N.* as aforesaid, distilling, falling, and renewing, as all other corrupt and stinking water in the said house and backside of the said *N.* made, evacuated, and diffused at all times of the year, as often as them it should please: And that the raine-water into the said backside of the said *N.* as aforesaid, distilling, falling, and renewing, and all other corrupt and stinking water in the said house and backside of the said *N.* in form aforesaid made, evacuated, and diffused, from the whole time aforesaid were brought and conveyed from the said house and backside of the said *N.* by the said Gutter, in, by, and through the said backside and Garden of the said *T.* and from the same backside and Garden of the said *T.* unto, and in the common Sewer aforesaid, as it ought and was wont to do. And this he is ready to prove, whereupon he prayeth Judgment, if the said *T.* his Action aforesaid thereof against him ought to have, &c.

*Replication that
the Defendant
made the gutter
of new, to the
intent as in the
Declaration.*

*Traverseth the
Prescription.*

And the said *T.* as to the said Plea of the said *N.* as to the making of the said Gutter of new in the said backside of the said *N.* above in bar pleaded, saith, that he by any thing in the same Plea alledged from having his Action aforesaid, thereof ought not to be barred, because he saith, that the said *N.* the said ninth day of *May*, in the thirty eighth year aforesaid, at the Parish aforesaid, the said Gutter in the said backside of the said *N.* of new did make, to the intent to bring the rain-water in the said backside of the said *N.* falling, and the blood of Oxen and of other Cattell by him the said *N.* in the said house killed, and the dung, filth, and garbage of the same Oxen and Cattell so killed, and other filthinesse in the same backside of the said *N.* cast and put from the same backside of the said *N.* into the backside of the said *T.* and from thence into the Garden of the said *T.* as he above against him doth complain: Without that, that the said *H.* and *E.* and all those whose Estate the said *H.* and *E.* have in the house, backside, and gutter aforesaid, unto the said *N.* as aforesaid demised, from the time whereof the memory of man is not to the contrary, have had, and were accustomed to have for themselves, their Tenants, and Farmers of that house and backside, a certain Water-course or passage leading and running from the said house of the said *N.* in, by, and through the said backside of the said *N.* and from the same backside of the said *N.* in, by, and through the backside and Garden of the said *T.* and from the same backside and Garden of the said *T.* unto, and in the common Sewer aforesaid next adjoining to the said Garden of the said *T.* in the said Parish of *M.* to convey as well the rain-water aforesaid, from time to time into the said backside of the said *N.* so as aforesaid distilling, falling, and renewing, as all other corrupt and stinking water in the said house and backside of the said *N.* made, evacuated, and diffused at all times of the year, as of-

And the said *N.* as at first, faith, that the said *H.* and *E.* and all those whose Estate the said *H.* and *E.* have in the house, backside, and gutter afore-^{Issue upon the}
said unto the said *N.* so as aforesaid demised, from the time whereof the me-^{Traverse of pre-}
mory of man is not to the contrary, have had, and were accustomed to have
for themselves, their Tenants, and Farmers, of that house and backside a cer-
tain Water-course or passage, leading and running from the said house of the
said *N.* in, by, and through the said backside of the said *N.* and from the same
backside of the said *N.* in, by, and through the said backside and Garden of
the said *T.* and from the same backside and Garden of the said *T.* unto
and in the common Sewer aforesaid, next adjoyning to the said Garden of the
said *T.* in the said Parish of *M.* to convey as well the rain-water aforesaid,
from time to time, into the said backside of the said *N.* as aforesaid, distilling,
falling, and renewing, as all other corrupt and stinking water in the said house
and back-side of the said *N.* made, evacuated, and diffused at all times of the
year, as often as it should please them, in manner and form as he hath above
alleged: And this he prayeth may be enquired of by the Country: And the
said *T.* likewise thereof: Therefore as well to try this Issue as the aforesaid o-
ther Issue between the parties aforesaid above joyned, it is commanded the
Sheriff that he cause to come, &c. See *Alards case*, *Coke* 9 f. 59.

Mich. 12. Jac. rot. 75 I. Brownlow, Kent ss I S one of the Attorneys of the
Common Bench declareth upon an attachment of Priviledge, against
RS and A his Wife, now dead, &c. And whereupon the said I in his proper
person complaineth, that whereas the said I is a good, true, and faithfull
man of the said Lord the King, and of the Lady Elizabeth late Queen
of England, from the time of his Nativity, hitherto himself hath governed
and behaved, and of good Name, Fame, gesture, and honest conversation
amongst his Neighbours, and other faithfull Subjects of the said Lord the
King that now is, with whom the said I hitherto hath had any fellowship,
was, had, noted, taken, and reputed, and of these his good state of conversa-
tion, and honesty, without any suspicion of falsity, Further, Ban-dough-
ter, felony, or of committing of any other fault or hurtfull Crime, without
blemish, unhurt, untouched, and unspotted, from the time of his Birth hi-
therto himself hath behaved and governed. And the said I to those his good
Name, fame, and honesty, had not only obtained and gotten to himself the
great freindship, favour, & good will of divers honourable, and worshipfull per-
sons, and of other Leige people of the said Lord the King, but also divers
great gains and profits towards his Livelyhood and the maintenance of his
family, more and more gained and obtained: And whereas also the first day
of Sept. in the sixth year of the said King, at W in the County aforesaid,
a certain Marriage was had and solemnized between the said I S, and one I G
Daughter and Heir of W G deceased. And whereas also afterwards, that
is to say, the thirtieth day of Sept. in the eighth year of the Reign of the said
Lord the King that now is, the same J G at W aforesaid died of the Plague:
Notwithstanding the said A, well knowing the premisses, envying the happy
state of the said J, of his meer and wicked malice befoze thought, to make
worse, and altogether to destroy, and not only to bring him the said J into scan-
dall and opprobry, and into the hatred and evill opinion of all the Leige peo-
ple of the said Lord the King, but also to bring him the said I into trouble
and vexation, and into danger of his life, and of forfeiting of all his Lands,
Goods, and Chattels, the first day of Aug. in the eleventh year of the Reign of
the said Lord the King that now is, at W aforesaid, in the presence and hear-
ing

The words.

ring of very many faithfull Subjects of the said Lord the King, did speak, relate, assever, and proclaim of the said I S these false, approbrious, and scandalous words following, that is to say, Thou (the said I S now Plaintiff meaning) art a murdering Willain, for thou (the said I now Plaintiff again meaning) hast murdered the Wife (the aforesaid I G late Wife of the said I then deceased, likewise meaning.) By reason of the speaking and proclaiming of which said false and scandalous words, the said I, not onely much the worse in his good Name, Fame, Credit, and Estimation aforesaid, and is brought into great infamie and discredit amongst his Neighbour and other honourable and worshipfull Subjects of the said Lord the King that now is, but also others worshipfull men, and other Subjects of the said Lord the King, who before that time did use the company of the said I, by reason of his good Name, fame, and honesty, by occasion of the speaking, and publishing of the same false and scandalous words, to the same false and scandalous words giving credit, from the company of the said I do altogether withdraw themselves, and with the said I any wayes to entermeddle do altogether refuse, whereupon he saith that he is the worse, and hath damage to the value of two hundred pounds, and thereof he bringeth his Suite, &c. Pledges to prosecute I D R R.

Bar, the Defendants say, that before the words spoken of the Plaintiff, he said Plaintiff did murder his wife, whereby she spoke those words, &c.

AND the said R S and A by I M their Attorney, come, &c. no Action, because they say, that before the said time in which it is supposed the speaking and proclaiming of the said English words in the Declaration above specified, to be, that is to say, the said thirtieth day of Sept. in the eighth year abovesaid, the said I S, the aforesaid Jane at W aforesaid, had murdered and killed, whereby the said A afterwards, that is to say, the said first day of August, in the eleventh year abovesaid, in the Declaration aforesaid above likewise specified, at W aforesaid, did speak, relate, assever, proclaim, and publish of the said J S, in the presence and hearing of the said Subjects of the said Lord the King, the said English words in the Declaration above specified, that is to say, thou (the said J S now Plaintiff meaning) art a murdering Willain, for thou (the said J S again meaning) hast murdered the Wife (the late Wife of the said J S then deceased, likewise meaning) and was lawfull for her: And this, &c. See before.

Replication that the Defendants of their owne wrong spoke the words, &c.

AND the said J saith, that he by any thing, &c. not to be barred, because he saith, that the said A of her own proper wrong, and without any cause by them the said R and A above alleged, did speak of the said J S the said English words in the Declaration above specified, that is to say, Thou (the said I S now Plaintiff meaning) art a murdering Willain, for thou (the said I again meaning) hast murdered the Wife (the said Jane, late Wife of the said I then deceased likewise meaning) as the said I above against the said R and A both complain. And this he prayeth may be enquired of by the Country, and the said R and A likewise, &c. Verdict for the Plaintiff, but no Judgment entred on the Roll, as it was reported to me by B that the Defendants Wife died before the return of the Hab. Cor.

T. H. as on the case brought for a Rejoinder. A. H. upon a Capias ut leg. See as the said Lord the King, the same Chancery at Westminster, in the County of Middlesex, then being, a certain Originall Writ of the said Lord the King, of a Plea of debt of twelve pounds, against one H. H. by the name of H. H. of T. in the County of T. H. to the then Sheriff of T. directed, by which said Writ the said Lord

TRIN. 13. Jac. rot. 2129. Brownlow, York ff. R. H. late of, &c. and I. S. late of, &c. were attached to answer E. A. &c. And whereupon the said E. by T. H. his Attorney complaineth, that whereas the said E. the three and twentieth day of January, in the year of the Reign of the Lord the King of England, &c. the ninth, had prosecuted out of the Court of Chancery, of the said Lord the King, the same Chancery at Westminster, in the County of Middlesex, then being, a certain Originall Writ of the said Lord the King, of a Plea of debt of twelve pounds, against one H. H. by the name of H. H. of T. in the County of T. H. to the then Sheriff of T. directed, by which said Writ the said Lord

the King, to the then Sheriff, did command, that the said Sheriff should command the said H. that justly and without delay he should render unto the said E. the same twelve pounds which unto him he then owed and unjustly detained, as he then had said, and unless he should do it, and the said E. should make the said then Sheriff secure of prosecuting his Sure, then the said then Sheriff should summon by good Summoners the said H. that he should be before the Justices of the said Lord the King here, that is to say, at W. afore said, in eight daies of the Purification of the blessed Mary, then next following, to shew wherefore he had not done it: And that the said then Sheriff should then have here the Summoners, and that Writ: At which said eight dayes, &c. before E.C. Knight, and his Fellowes then Justices of the said Lord the King, of the Common Bench here, that is to say, at W. afore said, cometh the said E. by his then Attorney, and offered himself the fourth day against the said H. of the Plea afore said: And he then here came not. And the said then Sheriff of Y. to the then said Justices of the said Lord the King then here returned the writ afore said, to him in form afore said directed, in all things served and executed, in form following, that is to say, that the said E. had found to the said then Sheriff Pledges of prosecuting his writ afore said, to wit J. D & R. R. And that the said H. then had nothing in his Bayliwick whereby he could be summoned, whereupon then and there it was commanded to the said then Sheriff, that he should take the said H. if, &c. and him safely, &c. so that he should have his body here, that is to say, at Westminster afore said, from Easter day in one moneth then next following, to answer the said E. of the Plea afore said &c. At which day here cometh the said E. by his said Attorney, and offereth himself the fourth day against the said H. of the Plea afore said, &c. And he then came not here: And the said then Sheriff of Y. then here returned, that the said H. was not found in his Bayliwick, whereupon then and there as before it was commanded to the then Sheriff of Y. that he should take the said H. if, &c. and him safe, &c. so that he might have his body here, that is to say, at Westminster afore said, in the morrow of the holy Trinity then next following, to answer the said E. of the Plea afore said. At which day here cometh the said E. by his said Attorney, and offered himself the fourth day against the said H. of the said plea; and he then came not here: And the said then Sheriff of Y. then here returned, that the said H. was not found in his Bayliwick, whereupon then, as more often it was commanded to the said then sheriff, that he should take the said H. if, &c. and him safe, &c. so that he should have his body here, that is to say, at Westminster afore said, from the day of the holy Trinity, in three weeks then next following, to answer the said E. of the said plea: And he then came not here: And the said then sheriff then here returned, that the said H. was not found in his Bayliwick, whereupon then and there it was commanded to the said then sheriff, that he should cause to be called the said H. from County to County, untill, &c. he should be outlawed, if not, &c. and if, &c. Then he should take him, and safe, &c. so that he should have his body here, that is to say, at W. afore said, in the morrow of Saint Martin, to answer the said E. of the Plea afore said. At which said morrow of Saint Martin, cometh the said E. by his Attorney afore said: And the said then sheriff of Y. then here returned, that at his County of Y. holden at the Castle of Y. in the County of Y. on Munday the twentieth day of July, in the year of the Reign of the Lord the King that now is of England, France, and Ireland, the tenth, the said H. was the first time called and appeared not. And at his County of Y. holden at the Castle of Y. in the County of Y. the seventeenth day of August, in the tenth year above said, the said H. was the second time called and appeared not; And at his County of Y.

in the tenth year of the Reign of the Lord the King that now is, and so at four Countie daies then next following; the said H. was called and appeared not: and because he did not appear at any of the said County daies, the said H. was outlawed. See the new book Entries, fol. 42, d. & 159. agreeth with this manner of pleading.

U u

holden

T. 21. j. rot. 703
Br. North. M.
A. Attorney, &c.
against H. Case
upon a rescons
upon an arreston
a Warrant upon
an attachment
of Priviledge in
debt; issue not
guilty.
M. 43, & 44 E.
liz. rot. 3174.
P. 43. Eliz. rot.
918.
H. 8. Jac. rot.
1043. by Ex-
cutor.
M. 14 Jac. rot.
552.
T. 14 Jac. rot.
3438.
T. 22 I. rot.
2098.
T. 18. I. rot. 708
of one in execu-
tion.
H. 21. j. rot.
2981.
The Plaintiff
brings pledges
to prosecute his
Sute on the Ori-
ginall writ.
Nothing retur-
ned.
Capias award-
ed.
The Plaintiff
cometh at the
day into Court.
Al. cap. away-
ded.
Plu. cap. away-
ded.
Exigent award-
ded.
And the Sheriff;
that is to say, A.
B. Knight, now
returneth that
at his County of
Y. holden at the
Castle of Y. in
the County of Y.
on Munday the
20 day of July;

holden at the Castle of Y. the thirteenth day of *Sept.* in the tenth year above said, the said H. was the third time called, and appeared not; and at his County of Y. holden at the Castle of Y. the twelfth day of *October* in the tenth year above said, the said H. was the fourth time called and appeared not; and at his County of Y. the ninth day of *Novem.* in the tenth year above said, the said H. was called the fifth time and appeared not. Therefore by the Judgment of the Coroners of the said Lord the King, of the County aforesaid, the said H. H. was outlawed, as by the writ and return thereof, remaining on Record, more fully appeareth.

Salary awarded.

Upon which said Judgment upon the said writ of *Exigent*, in form aforesaid had, the said E. afterwards, that is to say, the eight and twentieth day of *Novem.* in the tenth year above said, of the said King, had prosecuted out of the Court of the said King, of the Common Bench aforesaid, a certain writ of the said King of *Outlawry* against the said H. to the then Sheriff of the County of Y. directed, by which said writ, the said King that now is, unto the said then Sheriff of Y. did command that he should not omit for any liberty of his County, but that he should take the said H. outlawed in the said County of Y. the ninth day of *Novem.* in the tenth year above said, of the said King that now is, at the Sute of the said E. of a plea of Debt, if, &c. and him safe, &c. so that he should have his body here at this day, that is to say, in eight daies of the Purification of the blessed *Mary*, then next following, to do and receive what

Delivery of the writ before the return.

the Court of the said King here should consider of him in this behalf: which said writ of taking the said H. outlawed, the said E. afterwards, that is to say, the twentieth day of *Decem.* in the tenth year above said, at B. in the County aforesaid, did deliver unto C. H. Knight, the Sheriff of the said County of Y. in form of Law to be executed: By virtue of which writ the said C. the same

Sheriff makes a Warrant to special Bayliffs.

twentieth day of *Decem.* in the tenth year above said, made a certain Warrant sealed with the Seal of the Office of the said C. to J. W. and F. A. his Bayliffs, that behalf especially directed, and also to all other Bayliffs through his whole County, to take and arrest the said H. by virtue of which Warrant, the said J. W. and F. afterwards at T. aforesaid, did take and arrest the said H. and him in the custody of the said Sheriff then and there had, and him unto the Goal of the Lord the King in the County of Y. would have carried; Notwithstanding the said R. and J. not being ignorant of the premisses, knowing the said H. by the said J. and F. to be taken and arrested, and meaning and intending the same E. of the said twelve pounds, craftily and subtilly to deceive and defraud,

The arrest.

The grievance

afterwards, that is to say, the twentieth day of *December*, in the tenth year above said at B. aforesaid, with force and armes upon them the said J. and F. did make an assault, and the said H. out of the custody of the said Sheriff of Y. did take and rescue, and the same H. did convey unto places unknown unto the said E. whereby the said E. hath not onely sustained and expended divers labours and expences in seeking the said H. and prosecuting writs to take the said H. for satisfaction of the said Debt, but also hath wholly lost the said Debt by reason of the rescuing and conveying aforesaid, whereupon he saith, that he is the worse, &c. Damages forty pounds, Defendant pleads not guilty.

The rescue.

See Trin. 13. J. rot. 746. Brownlow, Trespass on the Case between L. & C. and others for a Rescous, upon a

Capias to satisfy. *Trin. 19 Eliz. rot. 1393. Brownlow, York ss. C. N. was attached by a Writ of the said Queen of Privilege, &c. H. D. one of the Clerks of H. L. one of the Prothonotaries, &c. of a plea, that whereas according to the Law and Custom of some of the Realm of the said Lady the Queen of England, the Inn-keepers that keep common Inns to lodge men travelling in parties (where those Inns*

Trespass upon the case against an Inn-keeper, for suffering the horse of his Guest to stray from his Inn in default of him and his servants.

M. 26 & 27 Eliz. rot. 414. T. 14. H. 8. rot. 2649. Customs of England, E. 26 Eliz. rot. 1348. See the book of Hostlers, f. 404. title Hostler, T. 25 Eliz. rot. 385.

are)

are) and in the same abiding, their Goods and Chateles within those Inns being bound to keep day and night, without diminution or loss, so that for defect of the same Inn-keepers, or their Servants in those Inns, damage to any one in any manner might not happen. And the said H. the third day of October, in the eighteenth year of the Reign of the Lady the Queen that now is, at N. in the County aforesaid, being lodged in the Inn of the said C. had a certain Gelding of the price of a hundred shillings within that Inn, and the same to the said C. then and there had delivered safely to be kept: Notwithstanding the said C. knowing that Gelding to be within his Inn, the said C. the same day and yeare the Gelding aforesaid, did so negligently keep, that the said Gelding for want of good keeping of the said C. and his Servants, from his said Inn went forth and wandered, whereby the said H. not onely wanted the use and profit of his said Gelding towards his journeys and businesses, and his necessary and serious businesses remained undone, and did expend and lay out divers summs of money by reason of the want of his said Horse, but also the said H. alwaies from the said third day of October, in the eighteenth year above said, lost the use and enjoying of his said Gelding, nor the same Gelding from the said C. althoughe to deliver the same he was often required, or from any other could have again or obtained, whereby the said H. wholly lost the same Gelding by the negligence of the said C. whereupon he saith, that he is the worse, &c. See *Causes*, case, Ca. 8 f. 33.

M. 19 Jac. rot. 811. Br. Norf. ff. 8, against S. Case against an Hostler for riding a horse of his Guest being sent by him to Pasture.

After 35 Eliz. rot. 7030. Suff. ff. Trespasse upon the Case in trober, &c. That whereas the said Plaintiff, &c. was possessed of one Colles-hawk claimed, of the price, &c. and of two batons bells, to the value, &c. as of his proper goods and chattels. The Defendant pleads specially, that he found them in his Dove-house and delivered them to the Sheriff: And traverseth the knowing of them to be long to the Plaintiff, &c.

Trespasse on the Case for a Hawk. See afterwards the like.

T. 6. Jac. rot. 1501. Trober brought by the Husband for monies lost by the wife at cards: And Judgment for the Plaintiff.

After 31 H. 8. rot. 513. Trespasse on the Case for that the Defendant procured and instigated a servant brought up in the house of the Plaintiff from the service and family of the Plaintiff, to go away with the goods and chattels of the Plaintiff.

Trespasse on the Case for enticing a servant out of his Masters service

T. 23. Eliz. rot. London. ff. W S Knight Lord B Lord T of England and T of the Exchequer of the Lady the Queen that now is, CH and others, Executors of the Testament and last Will of T. H late Earl of H of B deceased, come befoze the Barons of this Exchequer the third day of June this Term by I H their Attorney, and complaine by Will against the Lady M H widow, present here in Court the same day by R H her Attorney of a Plea of trespass upon the Case for that, that is to say, that whereas the said T late Earl in his life time, that is to say, the three and twentieth day of May, in the three and twentieth year, at London in the Parish, &c. has been possessed of a certain purse with three hundred and fifty six and monies in his life time, and makes by his Will the Plaintiffs his Executors, and died those goods, &c.

Trespasse on the Case in Trover by Executors for goods and monies lost before the death of the Testator.

The Testator was possessed of the goods possessed of

pounds of lawful money of England, in the same purse contained, four golden chains of the value of one hundred and sixty pounds, one golden local, &c. as his proper purse, moneys, goods, and chattels: And so thereof being possessed, the said T the four and twentieth day of May, in the three and twentieth year above said, at L in the Parish and Ward above said made his last will and Testament in writing, and by the same did constitute and ordain the Plaintiffs his Executors of the same last will and Testament.

Trove of the goods, &c.

And afterwards, that is to say, the said four and twentieth day of May, in the three and twentieth year above said, at L in the Parish and Ward above said died, after whose death, that is to say, the first day of May, in the three and twentieth year above said, the said purse, with the moneys above said in the same being, and all other the said goods and chattels at L in the Parish and Ward above said, to the hands and possession of the said Defendant, by finding, came.

And the said Defendant knowing the purse, moneys, goods, and chattels above said to have been the proper purse, moneys, goods, and chattels of the said T, and to him of right to belong and appertain, and unto the said Plaintiffs as Executors of the Testament above said of the late Earl of right to belong and appertain, yet meaning the said Plaintiffs of the purse, moneys, and other the goods and chattels to deceive and defraud, the said purse, with the moneys above said, and all the goods and chattels unto the said Plaintiffs, although often required, hath not yet delivered, but the purse, moneys, and other goods and chattels above said, the said first day of May, in the four and twentieth year above said, at London above said, in the Parish and Ward above said, to her proper use did put and convert, in hinderance of the execution of the Testament above said, and to the damage of the said Plaintiffs of one thousand pounds: And thereof they bring their Sute, &c. with this, that the said Plaintiffs will prove, that besides the moneys and goods above said, there came not to the hands of the said Plaintiffs, goods and chattels which were of the said Testator at the time of his death, sufficient to satisfy the debts, legacies, and funeral expences of the said Testator: And shew the Letters testamentary, &c.

Conversion.

Averment by the Plaintiffs that besides the goods and monies there came not goods to their hands to satisfy debts, &c. Shew the Letters Testamentary.

Pledges to prosecute, I D. R. R.

The Defendant as to part pleads not guilty, as to the residue saith, she was the Wife of the Testator, and that the residue of the goods and chattels are necessary furniture for her body, fit for her degree.

Averment that the Executors have assets to pay the debts besides the goods, &c.

As to the said M as to part not guilty, and as to the said four golden chains, &c. the residue of the said goods and chattels no action, because he saith, that the same goods and chattels at the time of the death of the said Testator were of the value of one hundred and sixty pounds, and not above. And that the same Defendant in the life time of the said Testator, that is to say, the twentieth day of January, in the three and twentieth year above said, at W in the County of D, in the Parish Church of G above said, was coupled in lawful matrimony unto the said Testator: And that the same golden chains, &c. were the usual attires of the same Defendant for her body in the life time of the said Testator, until the time of the death of the said Testator, whereby the same Defendant the goods and chattels as necessary furniture to her body appertaining, did detain, and as yet doth detain, with this, that the said Defendant will prove, that there came sufficient goods and chattels, which were of the said Testator at the time of his death, over and above the said four golden chains, &c. which the said Defendant doth claim for her necessary furniture, to satisfy all the debts, legacies, and funerals of the said Testator, after the death of the said Testator, to the hands and possession of the said Plaintiffs, the day of January, in the twenty fourth year, &c. at G in the County of D. And this, &c. Whereupon he prayeth Judgment, if Action, &c.

And

AND the said Plaintiffs, as to the said Plea of the said Defendant, as to the residue of the goods and chattels above in barre pleaded, ought not to be barred, because as at first they say, that the said Defendant knowing the residue of the goods and chattels to have been the proper goods and chattels of the said Testator, and to them the said Plaintiffs, as Executors of the Testament aforesaid of the late Testator, of right to belong and appertain, meaning yet the said Plaintiffs, of the residue of the goods and chattels aforesaid, to deceive and defraud, the same goods and chattels residue unto the same Plaintiffs, although often required, hath not as yet delivered, but the goods and chattels residue, the said first day of March, in the four and twentieth year aforesaid, at L. in the Parish and Ward aforesaid, to her proper use did put and convert, as they by their Declaration aforesaid thereof above have supposed, without that, the sufficient goods and chattels which were of the said Testator at the time of his death, over and above the said goods and chattels residue which the said Defendant claimeth for her necessary furniture, to satisfie all the debts, legacies, and funerals of the said Testator after the death of the said Testator, came to their hands, as the said Defendant hath above alledged: And this they are ready to prove, whereupon as to the goods and chattels residue, the said Plaintiffs pray Judgment and their damages by occasion of the premises to them to be adjudged, &c.

Replication that the converted those goods, &c.

Traverse that affects besides the goods, &c. came to their hands to satisfie debts, &c.

M 21. and 22. Eliz. rot. 1030. Suff. ss. I I late of, &c. and H R late of, &c. R H Clerk, of a Plea, that whereas W D and W C, otherwise, that is to say (such a day) prosecuted out of the Court of Chancery of the same Lady the Queen, the same Chancery then being at Westminster in the County of Middlesex, a certain original Writ of the same Lady the Queen to the then Sheriff of the County of S directed, against I then Bishop of Norwich, and the said R, returnable before the same Lady the Queen, from Easter day in one month then next coming, wheresoever it should then be in England, by which said Writ it was commanded to the same then Sheriff of the same Lady the Queen of S, that he should command I Bishop of N, and the said R, that justly and without delay they should permit the same Plaintiffs, to admit a fit person to the Church of F, which was then vacant, &c. reciting the whole Record, in which the Bishop made default unto the said Bishop. And the said H then appeared and pleaded, &c. And thereupon took issue. That if R H was admitted and instituted to the said Church at the presentation of the late Duke, &c. And the said W D and W C by their Declaration aforesaid then supposed: And this then they were ready to prove, where, and when, and as the Court then should consider. And the said R H likewise: And because the cognizance of this cause appertaineth to the Ecclesiastical Court, therefore it was commanded, &c. the Writ was made to the Archbishop, because the Bishop was a party, for certifying, &c. the same day was then given, as well to the said W D and W C, as to the said R H there, &c. as by the record and processe thereof in the Court of the said Lady the Queen, before the same Lady the Queen, at Westminster aforesaid remaining, manifestly appeareth.

Trespasse on the case against an inferior Minister for making a false return of the Writ to the Ordinary, that the Church was full, upon issue, in a quare imo, &c.

E 8. Jac. rot. 856. B against H, Case for returning a Nil inquit against a Free holder in the same County, being in his Freehold.

The said I H by collusion between them at E in the said County of S premeditated, meaning him the said R greatly to make woyle and prejudice, and him from the Church aforesaid desiring wholly to remove, the twentieth day of April, in the thirteenth year of the reign of the said Queen at E aforesaid the said Writ of the same Lady the Queen to the late Archbishop as above, said directed, into their hands craftily and subtilly obtained and gained, and falsly have made a certain Instrument, containing, that the said R H was admitted or instituted to the said Church of F, at the presentation of the said late Duke, whereas in truth the said R H to that Church was never admitted or instituted under the name of the said Archbishop (the said late Archbishop being

being altogether unacquainted) to be composed and written in parchment and red wax to the same habe caused to be put, and the Seal of the Ecclesiastical Court, commonly called the Court of Audience of the Archbishop of Canterbury, upon the same aforesaid fraudulently have procured to be affixed, and that the said writ so sealed have affixed to the writ to the said late Archbishop directed, and that the writ with the Instrument aforesaid to the same affixed, in the name of the said late Archbishop, and without his notice or assent, the tenth day of May, in the said year of the reign of the said Lady the Queen that now is, the sixteenth aforesaid, within the Term of Easter then held at Westminster aforesaid before the same habe caused to be returned and delivered, which said writ so falsely and fraudulently returned, and the Instrument to the same affixed, were there received, affixed, and recorded, the return of which said writ followeth in these words: The answer of M. Archbishop of Canterbury, Primate and Metropolitane of all England. The tenor also of the Instrument aforesaid followeth in these words: To the most Illustrious Prince in Christ, &c. By reason whereof, in the said Term of Easter, in the sixteenth year aforesaid, judgment in the same Court of the said Lady the Queen, before the same Lady the Queen, for the said W. D. and W. C. was given, that is to say, that the said W. D. and W. C. should receive their presentation to the Church aforesaid against the said R. H. And that he should have a writ to the said Archbishop, that notwithstanding the said saying of the said Bishop of N. and R. H. to the presentation of the said W. D. and W. C. he should admit a fit person to the Church aforesaid; and that the said R. H. should be in mercy.

E 10. 12c. rot. 542. For ex-communicating of one out of his Diocese. N against D. By virtue of which said judgment and execution of the same judgment, the said R. H. was from the Church aforesaid put out and removed, and thereby greatly made the waste, by reason of the defence of the Sute aforesaid, and of the damages taxed upon the said Judgment, and of the rest of the premises to the damage of the said R. of one thousand pounds: And thereof he bringeth his Sute, &c.

Action upon the Statute for slander of a Peer of the Realm.

First of Mary, rot. 717. Otherwise as it appeareth in the Term of the holy Trinity, in the year of the reign of the Lord Edward late King of England, the sixth, after the Conquest the seventh, rot. 910. It is contained thus: Wiles. ff. T. Chafe of, &c. was attached to answer as well the Lord the King as C. S. Knight, Lord of S., of a Plea, that whereas in the Statute, &c. reciting the Statute of De Scandalis Magnatum at W. 1. Scandalously say, relate, and in English words publicly proclaim, that is to say, the Lord S. hath burned my Barn, whereupon scandal and great discord unto the said C. then and there within the said Realm were risen, and contempt of the Lady the Queen that now is, and to the damage of the said C. of one hundred pounds, and against the form of the Statute aforesaid: Whereupon he saith, &c. And thereof he bringeth Sute, &c.

The Defendant pleads not guilty. Verdict and Judgment for the Plaintiff. Look upon Cromwells Case: Cook 4. fo. 13.

Action on the Statute of thirteen R. 2. brought for one in the Admirall Court upon a contract made out of the body of the County, &c.

11. Jac. Rot. 627. Waller. London, ff. T. A late of, &c. was attached to answer T. R., who as well for the Lord the King as for himself followeth, of a Plea that whereas, &c. And whereupon the said T. R. by R. W. his Attorney complaineth, that whereas in the Statute in the Parliament of the Lord Richard late King of England the second, after the conquest, in the thirteenth year of his reign, holden at Westminster in the County of Middlesex, amongst other things it was ordained by Authority of the same Parliament that the Admirals and their Deputies should in no wise interfere themselves

Selfes of any thing done within this Realme of Eng^l but only of things done upon the Sea, as in the time of the Lord Edward late King of England, Uncle of the same Lord King Richard, the second, was lawfully used, as in the same Statute among other things more fully is contained: And whereas also in the Statute in the Parliament of the late King Richard the second, in the fifteenth yeare of his reign, holden at Westminster aforesaid, amongst other things, it was declared, ordained, established by authority of the same Parliament, that of all Contracts, Pleas, and Plaints, and of all other things done, and arising within the bodies of Counties, as well by Land as by Water, and also of the Wreck of the Sea, the Court of Admiralty should have no consulance, power, or jurisdiction, but all those Contracts, Pleas, and Plaints, and all other things arising within the bodies of Counties, as well by Land as by Water as is abovesaid: And also the Wreck of the Sea should be tryed, ended, and discussed by the Law of the Land, and not before the Admirall, nor by the Admirall, nor any executing his office, as in the same Statute amongst other things more fully is contained, and whereas also in the Statute in the Parliament of H late King of England the fourth, in the second yeare of his reign, at Westminster aforesaid holden, amongst other things, it was ordained by authority of the same Parliament, that the said Statute in the yeare of the reign of the said late King Richard the second, the thirteenth abovesaid, should be firmly kept, and duly executed; and further, as to the punishment imposed upon the Admirall or his Deputy, the Statute and common Law towards them might be observed, and that he which should finde himselfe greived, contrary to the forme of the Statute aforesaid, in the said thirteenth yeare established, should have his Action upon the case by Writ against him which should so prosecute in the Court of Admiralty, and should recover his double damages against the prosecutor, & the said prosecutor should incur the penalty of ten pounds for prosecution so made, if there be he was convicted towards the Lord the King, as in the same Statute more fully is contained.

Note that this Action is brought by one of the Sureries in the Admirall Court. See the Book of Entries, fo. 28. D. 24. & 25. a. Title Admiralty. Plaintiff 1. 2. 4. & 5. The like actions and publication.

T. 27. Eliz. Rot. 1048. R. against S. the like action on the Statute, T. 8. Jac. rot. 1952.

Action upon the case, and double damages given by this Statute.

And whereas also the said P C after the setting forth of the severall Acts aforesaid, that is to say, the three and twentieth day of Aprill, in the yeare of our Lord 1610, at Westminster in the County of Midd. and within the body of the same County, and not upon the main Sea, nor within the Jurisdiction of the Court of Admiralty of England, by his certaine Will Obligatory, sealed with his seale, had acknowledged himselfe to owe unto the said T A two hundred seventy five pounds and six shillings, of lawfull money of England, to be paid unto the said T, when he should be thereunto required.

Fine to the King.

Notwithstanding the said T A not being ignorant of all and singular the Premises, and the Statutes aforesaid little weighing, nor any way fearing the penalty in the same contained, but maliciously meaning and intending him the said T R contrary to the due forme of the Lawes of this Realme of England, and against the forme and effect of the Statutes aforesaid, unjustly, and unduly to greive and oppresse, but also to disinherit the said Lord the King that now is, and his Regall Crowne, and the consulance of Pleas which to him the said Lord the King now and his Regall Crowne, and not to the Court of the Admiralty of England, both belong or appertaine, to another examination, in the same Court of Admiralty to draw, and by that meanes him the said T R of the Lawes and free Customes of this Realme of England to the said T, and every Subject of the said King of the same Realme due, to the people, and altogether to deprive, and the issues and profits which unto the said Lord the King by Prosecutions, Tryals, Examinations, Discussions, and finally Determinations of all and singular Debts, Contracts, Covenants, Promises, Agreements, and Trespasses upon the case, as also the validity in Law of all and singular Writings, and Wills Obligatory, and of other Writings,

Diminutions
of the Issues &
profits, which
accrue to the
Courts of the
King by Try-
alls, &c.
Plaint entred
by the creditor
against the
Debtor in the
Admirall
Court for a
debt due by
Bill.

Harris Serje-
ant made an

exception to the Writ because he said before D Deputy of the said Court of Admiralty, whereas it ought to be before D Deputy of the Admirall, because the Court cannot have a Leivenant, and he quotes *S. M Dyer* 159 but seek after this exception, because it is afterwards to the Iudges or Presidents, &c.

The Libell.

Writings and Deeds sealed, made, had, or obtained, which in the Court of the said King might happen to be had and made to his Regall Crowne belonging and appertaining, to diminish and make void, and him the said King that now is, his Regal Crowne thereof propounding to disinherit, after the setting forth of the several Acts aforesaid, that is to say, the five and twentieth day of August in the yeare of our Lord 1610. at W aforesaid, the said P C in the Court of the Admiralty of England, before the worshipfull and excellent men DD Knight Doctor of Lawes, and also R T also Doctor of Lawes, of the said Court of Admiralty of England, Judges or Presidents lawfully deputed and appointed, of, for, and concerning the validity and vigour of the said Bil Obligatory, by the said P unto the said T A as aforesaid made, and of and for the said two hundred seventy five pounds and six shillings in the said Bil Obligatory contained and specified.

And the said T A by the said P, by virtue and force of the said Bill as aforesaid due, hath drawn into a Plea by Libelling, subtilly, and warily against the said P C in the said Court of Admiralty, in manner and forme in these words following, that is to say, first of all, that in the moneths of January, February, and March, in the yeare of our Lord according to the computation of the Church of England 1609. and also in the moneths of March, and April, according to the Church of computation of the Eng. 1610. & of the said years in, or any, and in the moneths in the same agreeing more in one or any, the said P C was Merchant, & did exercise the trade of a Merchant in many parts beyond the Seas, and especially in the City of U, in the Realme of P, and for a Merchant himselve there behaved, and this was and is the manifest and known truth, and he averreth alone and severally and of every thing, also that in the years and moneths aforesaid, or of any of the years and moneths more in one or other, whilst the said P C was in the parts beyond the Seas, upon the main Sea, or otherwise within the Jurisdiction of the Admiralty of England, the said P C out of some Contracts, Civil and Maritime, and of other causes belonging to the Consuance of the Jurisdiction of the supreme Court of the Admiralty of England, unto the said T A in some sums of money, in the whole extending to the sum of two hundred seventy five pounds six shillings, of lawful money of England, was, and had been bounden and indebted, and averreth of every other sum greater or lesser unto such, and so much, which, and how much by lawful proofes or confession by adverse parties in the event of this strife shall be approved, and averreth as abode also that in the years and moneths aforesaid, or of any of the years and months, in every one more, one, or any, the said P C whilst he remained in the parts aforesaid beyond the Seas upon the main Sea, or elsewhere within the Jurisdiction of the Admiralty of England aforesaid, for the due payment of the said sum of two hundred seventy five pounds six shillings of lawful money of England unto the said T A his Heires, Executors, Administrators or Assignes, by his writing in the said Parts beyond the Seas, upon the maine Sea or elsewhere, within the Jurisdiction of the Admiralty of England being lawfully made, and with his own hand subscribed, and with his seale sealed, and for his Deed delivered, did bind, and averreth as abode also that the said P C being duly, justly, and earnestly requested and demanded to pay, reild, deliver, and satisfie the sum of two hundred seventy five pounds and six shillings, of lawfull money of England due to the said A as is premised, hath not regarded, nor doth not regard to doe the Premises or any of them, but expressly renounceth and refuseth, or at least more then justly hath deferred and doth defer at the present, and averreth as before.

And

And also that the said P C Goods sufficient to pay the aforesaid debt, by him to the aforesaid T A as is premised due from beyond the Sea, in a certaine Ship called the A, designed for the Port of London, and also that the said T A not having any other hope of recovery of his said debt, but by the attaching of the said Goods being in those parts as is premised, and designed to the Port of London, and belonging to the said P C the same Goods, and all and singular within the Jurisdiction of the Admiralty of England, by the authority of this Court, after the making, subscribing, sealing, and delivery of the aforesaid Writing obligatory caused and procured to be attached: And averreth as before: Also that the said P C by himself or his Factor for his interest in the same, came and put in bayle to answer to the said Action, and by that means, and by reason of the premises in manner as is premised, he is become a Subject, and subjected to the Jurisdiction of the Judges of the Court of Admiralty: And averreth as before. And also that it is truly and lawfully complained of, and upon the premises, on the part, and by the aforesaid party T A, against the said P C before the said Judges: And averreth as before. And also that all and singular the premises were and are true, publick, clear, and manifest, and that he hath laboured as at present he doth labour, &c.

The Defend. puts in bayl in the Court Admirall to answer the Action.

H 7. Jac. rot. 1249. Waller. G P at the Suite of P W. And whereupon the said P by F S his Attorney complaineth, that whereas, according to the law and custom of England of the Lord the King that now is, of England, Inn-keepers, which keep common Innes to lodge men, where those Innes are, travelling, and in the same abiding, their goods within that Inne being are bound to keep in safety day and night without diminution or losse, so that for defect of the safe keeping of the said Inn-keepers, or their servants of those Innes, damage any manner of way might not happen.

Case against an Hostler for keeping a Mistle accustomed to bite Cattel, &c.

The said G a certain Mastiff dog of him the said G, accustomed to bite Cattel, at W aforesaid knowingly did keep, which said Mastiff of the said G the seven and twentieth day of September, in the sixth year of the reign of the Lord the King that now is, a certain Horse of the said P of the price of four pounds, being within the Inne of the said G at W aforesaid (in which the said P was lodged) for want of due keeping of him the said G, and of his said servants, did so greedously bite, that the said Horse then and there died, to the damage of the said P of ten pounds, and against the law and custom aforesaid: And thereof he bringeth his Suite, &c.

The Defendant pleads not guilty of the premises.

Judgment for the Plaintiff.

And damages in the whole unto ten pounds and ten shillings.

And the said Defendant in mercy, &c.

M 8. Jac. rot. 3448. Brownlow. Lincoln. ss. F T late of, &c. was attached to answer I H, &c. And whereupon the said I by W D his Attorney complaineth, that whereas the said I the nine and twentieth day of August, in the seventh year of the reign of the Lord the King that now is, at S had delivered a certain Gelding of the said I, of the price, &c. to depasture, and safely and securely to be kept, and to the said I, when he should be thereunto required, delivered: upon confidence of the faithful delivery of the said Gelding by the said I unto the said F to be depastured and kept; the said I rendering and paying to the said F for every week that the said Gelding of the said I in the pasture of the said F should be depastured, six pence of lawful money of England.

Case against an Inn-keeper for not keeping of a horse being put to depasture.

Notwithstanding the said F I of this faithful confidence of re-delivering of the same Gelding being negligent, and of the faithful restoring of that Gelding, little regarding, the Gelding aforesaid, afterwards, that is to say, the twentieth day of November, in the seventh year aforesaid of the said King

The Plaintiff at the Assizes is non-suited in this Action, and three score shillings given to the Defendant for damages by the discretion of the Justices 2444. Trin. 34

at S. aforesaid, by negligence of the said F. and for want of good keeping of that Gelding, by certain evil persons, to the said I altogether unknown, was eloynd to places to the said I altogether unknown, whereby the said I was not only defrauded of his said Gelding, but also of whatsoever ease, commodity, and profit, which by riding about divers his serious businesses, divers ways to him in the mean time might have happened to have had and received, wholly deprived, to the damage of the said I of twenty pounds, &c.

Defendant pleads not guilty.

By the Statute, &c. See Trin. 34. Eliz. rot. 1560. or 1394. M. 29. and 30. Eliz. rot. 1030.

Case against an Inn-keeper for ill keeping the horse of his guests within his Inn, Coke 9. Calves case, f. 33 pl. 3.

TRin 8. Jac. rot. 491. York ss. between W. and B. And whereupon the said E. by B. his Attorney complaineth, that whereas, according to the Law and custome of the Realm of the Lord the King that now is, of England, the Inn-keepers which keep common Inns to lodge men travelling by parts (where those Inns are) and in the same abiding their Goods and Chattels within that Inn being, without any diminution or losse, are bound to keep day and night, so that for defect of the said Inn-keepers, or of their Servants in those Inns, damage might not happen any manner of way, certain Malefactors, the eight and twentieth day of June, in the sixth year of the Reign of the said King of England, &c. a certain Gelding, of the said E. of the price, &c. in the common Inn of the said Defendant at B. in the County aforesaid being found, out of the custody of the said Defendant, in the same Inn being, in defect of the said T. or of his Servants aforesaid, did take and lead away, and other wrongs, &c. whereupon, &c. forty pounds, and thereof, &c.

Defendant pleads, that the Plaintiff requested him to send his horse to pasture.

AND the said T. by F. K. his Attorney cometh, &c. and no Action, because he saith, that the said E. the said time in the Declaration aforespecified, was lodged in the Inn of the said T. and then and there required the said T. that the said T. would put the said Gelding in any Close of Pasture of the said T. to feed, the Grasse in the same Close being, whereby the said T. then and there, at the said request of the said E. so made, did put the said Gelding in a certain Close of Pasture of the said T. called W. in M. near B. aforesaid to feed the Grasse in the same, and there depasturing, which said Gelding was feeding in the Grasse in the same growing, and there depasturing, untill certain Malefactors the day and year in the Declaration aforesaid above specified, the Gelding aforesaid out of that Close did take and lead away; without that, that the said Gelding in the said Inn being, was taken and led away from the said Inn, in defect of the said T. and of his Servants, as the said E. above against him hath complained: And this he is ready to prove, whereupon he prayeth Judgment, if the said E. his Action aforesaid against him ought to have, &c. See *Calves case*, b. p. 3. This plea and difference was adjudged good by Wray, and Anderson, and by Coke no good plea, *Calvis Case*.

Traverseth the eloyment of the horse out of the Inn in his default, &c.

The Plaintiff replies, that Malefactors eloynd his horse out of the Inn in default of the Defendant and his Servants. Traverseth the request of sending the horse to pasture.

AND the said E. saith, that he by any thing before alledged, from having his said action ought not to be barred, because he saith, that he the said eight and twentieth day of June, in the sixth year aforesaid, at B. aforesaid, did deliver unto the said T. the said Gelding in the Stable within the said Inn to be kept and fed: And that certaine Malefactors the said time in the Declaration aforesaid above specified, that Gelding from the custody of the said T. in the said Inn being, in default of the said T. and of his Servants, did take and lead away, as he above by declaring hath alledged, without that, that the said E. required

required him the said T. that he the said T. would put the said Gelding in any close of pasture of the said T. to feed the Grasse in the same growing, as the said T. above hath alledged. And this he is ready to prove, whereupon he prayeth Judgment and his Damages by occasion of the premisses to him to be adjudged, &c.

Seek of this Traverse upon J. rot. 3122, demurrer in replevin, traverse D. against F.

was offered upon traverse. E. 42. Eliz. rot. 1816, M. 11. J. rot. 1200, Tr. 13. J. rot. 2571, or 2560.

And the said T. as at first saith, that the said E. did require him the said T. that he the said T. would put the Gelding in any close of Pasture of the said T. to feed, the Grasse in the same growing, as he above hath alledged. And of this he putteth himself upon the Country, and the said E. likewise: Therefore twelve, &c. Verdict for the Plaintiff, damages in the whole to ten pounds and ten shillings; and the said T. in mercy, &c.

Rejoinder and issue upon the request, and Judgment for the Plaintiff. Merry.

T*rin. 17. Jac. rot. 1880. Brownlow Sussex ff. G. L. E. S.* of a plea, that whereas the said Plaintiff the thirtieth day of *October*, in the eleventh year of the said King, thirty Runts of the said Plaintiff, safely to be kept, and in the pastures of the said Defendant in C. aforesaid, with Grasse and Straw, there to be depastured and fed, for a certain sum of money, that is to say, twenty pounds, unto the said Defendant, by him the said Plaintiff to be paid, untill a certain time, that is to say, the first day of *May*, in the twelfth year of the said King now last past, at O. aforesaid, had delivered the said Defendant the Runts aforesaid, within the time aforesaid, so negligently and improvidently did keep, depasture and feed, that seven Runts of the Runts aforesaid, for default of due keeping and depasturing aforesaid, and the negligence of the said Defendant, died, and the residue of the said Runts for default of due keeping and depasturing of the said Defendant unto the said Plaintiff, were lean and much the worse, to the damage of the Plaintiff of forty pounds, &c.

H*2. Jac. rot. 706. Brownlow ff.* Otherwise as it appeareth in the Term of *S. M.* in the year of the Reign of the Lord the King that now is, of *England, France, and Ireland*, the second, and of *Scotland* the thirty eighth, *rot. 3407.* it is contained thus; *London ff. E. A.* was attached by a writ of the Lord the King, of Privilege, from the Court here issuing, to answer *E. C. Gent.* one of the Attorneys of the Court of the said Lord the King that now is, of the Common Bench, according to the Liberties and Privileges of the same Court, for such Attorneys and other Ministers of the same Bench, from the time whereof there is no memory, used and approved in the same, of a plea of Trespass upon the Case, &c. And whereupon the said *E. C.* in his proper person complaineth, that whereas he the twentieth day of *April*, in the second year of the Reign of the said King that now is, at *London*, in the Parish of *St. M. B.* in the Ward of *F.* without, was possessed of one silver Saltceller, part gilded, of the price of six pounds thirteen shillings four pence, as of his proper Saltceller, and so thereof being possessed, that Saltceller out of his hands and possession casually lost: which said Saltceller, afterwards, that is to say, the first day of *May*, in the second year aforesaid, at *L.* in the Parish and Ward aforesaid, to the hands and possession of the said *E. A.* by finding came; notwithstanding the said *E. A.* the said Saltceller to be the proper Saltceller of the said *E. C.* and to him the said *E. C.* of right to belong and appertain, meaning and intending him the said *E. C.* in this behalf craftily and subtilly to deceive and defraud, the Saltceller aforesaid, unto the said *E. C.* although often thereunto he had bin required, hath not delivered, but that Saltceller afterwards, that is to say, the first day of *May*, in the year aforesaid, at *L.* in the Parish and Ward aforesaid, to certain persons unto the said *E. C.* unknown for a certain sum of money thereof between them agreed, did bargain and sell, and the money thereof coming, to the proper use and commodity of him the said *E. A.* did then and there dispose and convert,

Trespass on the Case in Traver for Plate, by an attorney, upon an attachment of privilege.

Possession of the Plaintiff.

The losing.

The trover.

The grievance.

The sale of the plate and converting the money to the use of the Defendant.

convert, whereupon he saith, that he is the worse, and hath damage to the value of ten pounds, and thereof he bringeth his Sute, &c. Pledges, &c.

The Defendant pleads, that by the custom in London, every day of the week, except holy daies and Sundayes is a common Market for all men, to buy, or sell, &c. whereof one party of the contractors be a Citizen, and that the Defendant being a Citizen, that is to say, a Goldsmith, a stranger, such a day sold to him the Plate in the Declaration, whereby he was possessed, &c. and traverseth the conversion in any other manner, &c.

Traverseth the conversion in another manner than the Plaintiff declaimeth.

Plaintiff imparleth to the plea of the Defendant's replication that the Defendant of his own wrong did convert the Plate to his own use, and traverseth the sale by a stranger such a day.

The Defendant demureth specially to the replication of the Plaintiff, and sheweth the cause that the Plaintiff traverseth the day of the sale of the Plate, whereas the sale is only traversable.

And the said E. A. by W. D. his Attorney, cometh, &c. and saith, that the said E. C. ought not to have his said Action against him, because he saith, that the City of London aforesaid, is an ancient City, and that in the same City, there is had, and from the whole time whereof the memory of man is to the contrary, there was had a common Market every day in the week, in the day time, from the rising of the Sun untill the setting of the Sun of the same day, in all open places of the said City (Sundayes and Festival daies onely excepted) for all persons willing to buy or sell, in which one party of the Contractors be a Citizen and free-man of the said City. And the said E. A. further saith, that the last day of June, in the second year above said, of the said King being Saturday, and no Festival day, or Sunday, one R. E. Gent. at London, in the Parish and Ward aforesaid, was possessed of the Salt seller aforesaid, and so thereof being possessed, at L. in the Parish and Ward aforesaid, in the day time of the said last day of June, and after Sun rising, and before Sun setting of the same day, that is to say, at four of the Clock in the afternoon of the same day, for five and forty shillings of lawfull money of England, unto the said R. by him the said E. A. then and there paid, then and there in the open Market of the said City, the said Salt seller, in the open Market of the same City, then and there being, did bargain and sell unto the said E. A. the Salt seller aforesaid, the same E. then being a Free-man and a Citizen of the said City, that is to say, free of the Art or Mystery of a Goldsmith of the City of London, whereby the said E. A. was possessed of that Salt seller, as of his proper Salt seller, and so thereof being possessed, that Salt seller, afterwards, that is to say, the said last day of June, in the second year above said, at L. in the Parish and Ward aforesaid, to the proper use and commodity of him the said E. did dispose and convert, as it was lawfull for him to do, without that that he is guilty of any other conversion of the said Salt seller, to the use and commodity of the said E. in manner and form as the said E. C. by his Declaration aforesaid above doth suppose. And this he is ready to prove, whereupon he prayeth Judgment, that the said E. C. ought to have his said Action against him, &c.

And the said E. C. prayeth leave thereof to imparl here untill VVednesday next, after eight daies of St. Hillary: And he hath it, &c. the same day given to the said E. A. here, &c. At which day here cometh as well the said E. C. in his proper person, as the said E. A. by his said Attorney: And hereupon the said E. C. not to be barred, because he saith, that the said E. A. of his own proper wrong, the Salt seller aforesaid, to the proper use and commodity of him the said E. A. did convert and dispose, as he above against him hath declared, without that, that the said R. E. in the day time of the said last day of June, in the second year above said, at L. in the Parish and Ward aforesaid, did bargain and sell unto the said E. A. the said Salt seller, in manner and form as the said E. A. above hath alledged, and this he is ready to prove, whereupon for that the said E. A. the conversion of the Salt seller aforesaid above hath acknowledged; the said E. C. prayeth Judgment and his damages by occasion of the premisses to him to be adjudged, &c. Harris.

And the said E. A. saith, that the said plea of the said E. C. above by replying pleaded, and the matter in the same contained, is not sufficient in the Law for him the said E. C. to have and maintain his said Action against the Plaintiff, and sheweth the cause that the Plaintiff traverseth the day of the sale of the Plate, whereas the sale is only traversable.

said *E. A.* and that he to that plea in manner and form aforesaid pleaded, hath no need, nor by the Law of the Land is bound to answer: And for cause of Demurrer in Law, the said *E. A.* sheweth to the Court here, that the said *E. C.* in his Replication aforesaid, traverseth the day of the sale of the said Salt-feller, unto the said *E. A.* by the said *R. E.* by him the said *E.* in his said plea, in Bar, of the Action aforesaid above pleaded, alledged, whereas the certain day of that sale and delivery is not in this case traversable, but onely the said bargain and sale of the said Salt-feller ought to be traversed. And this he is ready to prove, whereupon for want of sufficient replication of the said *E. C.* in this behalf, the said *E. A.* prayeth Judgment: and that the said *E. C.* from his Action aforesaid to be had against the said *E. A.* may be barred, &c.

Altham. Plaintiff joynes in Demurrer.

T 8. Jac. rot. 1620. *Norff. ss. I. B.* late of, &c. *A. H. Knight*, of a Plea that whereas the said *A.* is a good, true, and faithfull leige man of the Lord the King that now is, and of divers his Progenitors, late Kings and Queens of England, from the time of his Nativity hitherto himself hath behaved, had and governed: And of good name, fame, conversation, and reputation, as well amongst the honourable persons, as other faithfull Subjects of the said Lord the King, and his Progenitors aforesaid, to whom the said *A.* was known, by the whole time aforesaid, was had, taken, and reputed. And whereas also the said *A.* the second day of *March*, in the year of the Reign of the Lady *Elizabeth*, late Queen of *England*, the forty fourth, and for many years then last past, had been one of the Justices for keeping the Peace of the said late Queen, in the County of *N.* And also assigned to hear and determine divers Felonies, Trespases, and other Misdemeanors committed in the same County: And the said *A.* by the whole time wherein he had been one of the Justices aforesaid, for keeping the Peace in the County aforesaid, did administer Justice to all equally and truly, according to his power and knowledge, according to the Law of this Realm of *England*: And himself in his Office justly and honestly behaved and governed: and by reason thereof the said *A.* the great good will, good opinion, and estimation, as well amongst divers honourable persons, as other faithfull Subjects of this Realm of *England* gained to himself. And also whereas the said *J.* the said second day of *March*, in the forty fourth year aforesaid, of the said late Queen, for that he did not find sufficient security for keeping the Peace of the said late Queen, and of behaving himself well towards the said late Queen and all her people: And also to appear at the next general Sessions of the Peace for the Hundred of *T.* in the same County then held, was lawfully and justly committed to the Prison of the then said Lady the Queen, for the said County of *N.* by the said *A. M. C. Knight*, *P. W. Knight*, *H. G. Knight*, *H. H. Knight*, and the Attorney General of the said Lord the King, that now is, and *J. P.* Esquire, then Justices of the said Lady the Queen, for keeping the Peace in the County aforesaid; And also assigned to hear and determine divers Felonies, Trespases, and other misdemeanors committed in the same County. Notwithstanding the said *J. B.* not being ignorant of the Premises, but meaning him the said *A.* in his good name, fame, estimation, and reputation aforesaid, greatly to hurt and deprive, and him the said *A.* to bring into scandal and displeasure, as well amongst the honourable and worshipfull persons, as amongst his Neighbours and other faithfull Subjects of the said Lord the King that now is, the third day of *August*, in the year of the Reign of the Lord the King that now is, of *England*, *France*, and *Ireland*, the first, and of *Scotland* the thirty seventh, at *W.* in the County aforesaid, speaking of the said commitment of the said *J.* to the Prison aforesaid, for the causes aforesaid, by the Justices of the Peace then and there, these false, feigned, scandalous, and lying English words following, of the same *A.* then being Sheriff of the County aforesaid, in the hearing of very many Subjects of the said Lord the

Trespass upon the case brought by a Justice of the Peace, for scandalous words spoken of him touching the Execution of Justice in his Office.

The Defendant was committed to prison for want of sureties for keeping the Peace by the Plaintiff, and divers other justices, &c.

The grievance.

the King, then and there being, openly and publickly did speak, assever, publish, and proclaim, that is to say, you (the same *A.* meaning) were the only man that caused me (himself meaning) to be imprisoned unjustly (the said commitment to Prison, by the said Justices of Peace meaning) without Bail or Mainprise, and caused Irons to be put on me, and there laid, till I was almost dead and am hereby lamed; by reason of the speaking and proclaiming of which said false and scandalous words, the said *A.* in his good name, fame, credit, estimation, and reputation aforesaid, wherewith before that he had been endued, is very much hurt and made worse, to the damage of the said *A.* of two hundred pounds, and thereof he bringeth his Sute, &c. The Defendant demurred in Law by *Hutton*. The Plaintiff joyned in demurrer, by *Houghton* Serjeant.

Copy-holder doth prescribe against his Lord, &c. to have pot-water for his necessary use out of the River running by his Tenements, and brought his action of case against a Tanner, for erecting a Tan house and Tan-pits upon the same River by which the River was corrupted, and the water therein running was putrified, whereby the said Copy-holder could not have wholesome water, &c.
T. 3. C. Rot. 612. Moyle, T. against D. the Defendant prescribes for having a water-course for Pot water. Descent of the Mannor from the Father to the Son.

TRin. 14. Jac. rot. 2194. Br. Som. ff. G T upon an attachment of writ, *1 D* Cent. one of the Attorneys of the Court, &c. And whereupon the said *I* in his proper person complaineth, that whereas one *T* Esquire was seised of the Mannor of *N*, with the appurtenances, in the County of *S*, whereof one Messuage and thirty acres of Meadow, and Pasture, with the appurtenances, in *N* aforesaid, are, and from the time whereof the memory of man is not to the contrary, were parcel in his Demesne as of fee, which said Tenements, with the appurtenances, are, and from the whole time aforesaid were customary Lands of the Mannor aforesaid, and demised and demiseable by copy of the Rolls of the Court of that Mannor by his Steward of the Court of that Mannor for the time being, to whatsoever person or persons willing to take the same for term of life or lives, that is to say, to the person in possession, and to one or two persons in remainder, at the will of the Lord, according to the custom of that Mannor.

The said *I* T of the said Mannor, with the appurtenances, whereof, &c. in form aforesaid being seised, the said *I* T at the Court of the said *I* of his said Mannor, holden at that Mannor the fourth day of November, in the fourth year of the reign of the Lady Elizabeth, late Queen of England, by one *H* T, then his Steward of the Court of the said Mannor, by copy of the Rolls of Court of that Mannor, did demise to one *I* D, by the name of *I* D, father of the said *I* now Plaintiff, the Tenements aforesaid, with the appurtenances, by the name of one Cottage, with its appurtenances, to have and to hold unto the said *I* the father for term of his life, at the will of the Lord, according to the custom of the said Mannor.

By virtue of which demise the said *I* D the father into the Tenement aforesaid, with the appurtenances, did enter, and was thereof seised in his Demesne as of free-hold, for term of his life, at the will of the Lord, according to the custom of that Mannor. And the said *I* T of the said Mannor, with the appurtenances, so in form aforesaid being seised; And the said *I* D the father, of the Tenements aforesaid, with the appurtenances, in form aforesaid, for term of his life likewise being seised, the said *I* T afterwards, that is to say, such a day, in the thirtieth year of the reign of the said Lady Elizabeth, late Queen of England, at *N* aforesaid, died, of such his estate thereof seised, after whose death the said Mannor, with the appurtenances, did descend to one *I* T Esquire, as Son and Heir of the said *T* the father, whereby the said *I* T the son, into the said Mannor, with the appurtenances, whereof, &c. did enter, and was thereof seised in his Demesne as of fee. And so thereof being seised, the said *I* T the son into the Mannor aforesaid, with the appurtenances, whereof, &c. did enter, and was thereof seised in his Demesne as of fee; And so thereof being seised, the said *I* T the son, afterwards, that is to say, at the Court of the said *I* T of his Mannor aforesaid holden, at that Mannor, the eighteenth day of October, in the thirty fourth year of the reign of the said late Queen of England, by one *T* F then his Steward of the Court of that

That Hanno, by copy of the Rolls of the said Court, did demise unto I D the son, now Plaintiff, by the name of I S the younger, the reversion of the Tenements aforesaid, with the appurtenances, by the name of the reversion of one Cottage, with the appurtenances, in the said Hanno of N aforesaid, then in the tenure of I D the father, to have and to hold the Tenements aforesaid, with the appurtenances, unto the said I D, now Plaintiff, for term of his life, at the will of the Lord, according to the custom of the said Hanno, when, after the death, surrender, or forfeiture of the said I D the elder then Tenant of the Tenements aforesaid, by copy of the Rolls of Court of the said Hanno, for term of his life, at the will of the Lord, according to the custom of the said Hanno, it should happen.

Grant of the Copy-hold estate in reversion.

And the said I D the father, of the Tenements aforesaid, with the appurtenances, in sozm aforesaid being seised, the said I D the father afterwards, that is to say, at the Court of the said I T of his said Hanno holden, at that Hanno such a day, &c. in the four and thirtieth year abovesaid of the said late Queen of En. according to the custom of the said Hanno, did surrender in to the hands of the then Lord of the said Hanno, the moiety of the Tenements aforesaid, with the appurtenances, to the use and behoof of the said I D now Plaintiff to have & to hold unto the said I D, now Plaintiff, for term of his life, at the will of the Lord, according to the custom of the said Hanno, which said I D, now Plaintiff, at the same Court was admitted thereof Tenant by the said I T then Lord of the said Hanno, according to the form of the surrender aforesaid, where by the said I, into the moiety aforesaid, with the appurtenances, did enter, and was thereof seised in his Demesne as of free-hold, for term of his life, at the will of the Lord, according to the custom of the said Hanno.

The admission of one who hath the use of the surrender, &c.

And whereas also the said G C both hold and occupy, and from a long time hath held and occupied a certain Messuage, and one Close of Meadow, called O Meadow, with the appurtenances, in N aforesaid, parcel of the said Hanno, in, by, and through which said Meadow there is, and from the time whereof the memory of man is not to the contrary, a certain common River runneth and descendeth from the South part of the same Meadow, unto, by, and through a certain peice of Land, called the Green, in N aforesaid, and from thence leading from the Town of N aforesaid to a certain water-mill in N aforesaid, called Y Mill, and from the same highway in, and through the Orchard of one R G in N aforesaid, and from the same Orchard of the said R G, in by and through a certain Orchard of the said I D, now Plaintiff, now granted, as aforesaid, parcel of the said Tenements, and from thence running down and descending towards, and unto a certain Meadow of the said I T, called P Meadow, in the County aforesaid.

Note this form of pleading.

Shewing the head of the river, and current thereof, for the better making of the Declaration certain.

And whereas the said G T by the space of four years last past was possessed, and as yet is possessed of one other Messuage, with the appurtenances, in N aforesaid, in the County aforesaid, called the C, and of one Meadow there, called C Meadow, with the appurtenances, to the said Orchard of the said I D, now Plaintiff near adjoining, in N aforesaid in the said County, the said River heading, running, and descending by and near the said Meadow of the said G T called C Meadow on the East part, and by and through the said Orchard of the said I D, now Plaintiff, in N aforesaid, near the middle of the said Orchard.

The Plaintiff sheweth that the Defend. was and is possessed of a Messuage adjoining to the River running through his Orchard &c.

And whereas the said I T the father in his life time, and the said I T the son, after the death of the said I T, and all those, whose estate the said I T the

Prescription by two Lords, and such as

had the share, &c. to have pot-water for their Farmers and Tenants of the said Tenements, or moiety of them, for their necessities.

son, now hath of and in the Mannor aforesaid, with the appurtenances, have, and from the time whereof the memory of man is not to the contrary, were accustomed to have, and of right ought to have, for themselves, their Farmers, and Tenants, as to the said Messuage, with the appurtenances, or the moiety thereof belonging and appertaining in the said Orchard of the said J D, now Plaintiff, in and out of the said River running down and descending between the said Meadow, called C Meadow, and the said Orchard of the said J D, now Plaintiff, at all times of the year at his and their pleasure, clean, pure, and wholesome pot-water to dress all and all manner the victuals, which should appertain towards the necessary sustentation of men inhabiting and residing with the Tenements aforesaid, with the appurtenances, or any parcel thereof.

The grievance
see the book of
Entries, title
Nuisance, fo.
442. Pl. 3, 4, 5.

Nuisance in erecting a Tan-house and divers Tan-pits, by which the uncleanness, &c. running in the river aforesaid, whereby the pot-water of the Plaintiff became corrupt.

Nevertheless the said G not ignorant of the premises, but meaning, and maliciously intending the said J, now Plaintiff, in this behalf unlawfully to grieve, the five and twentieth day of May, in the thirteenth year of the reign of the Lord the King that now is, of England, &c. at N aforesaid, a certain Tan-house near the said Meadow of the said G, called C Meadow, near the said River, and near the said Orchard of the said J D, now Plaintiff, in N aforesaid, at N aforesaid late erected and continued: And direds Tan-pits in the said Meadow, called C Meadow, then and there made and digged: And the mud, filthiness and other unclean things into the said Meadow of the said G, called the C Meadow, near the said River, and near the said Orchard of the said J D, now Plaintiff, then and there out of the Tan-pits aforesaid, then and there did evacuate and cast; and from thence the mud, filthiness, and uncleanness aforesaid, into the said River out of the said Meadow of the said G called C Meadow, near the said Orchard of the said J D, now Plaintiff, out of the same Tan-pits then and there being evacuated and cast into the pot-water of the said J D, now Plaintiff, then and there did run down and descend, whereby the said pot-water of the said J D, now Plaintiff, then and there out of the River near the Orchard of the said J, now Plaintiff, for the necessary use of the said J, now Plaintiff, and of his whole family taken and had, became putrid, corrupt, and to humane bodies altogether unwholesome, to the great damage of the said J, now Plaintiff, whereupon he saith, that he is the worse, &c. damages forty pounds, and thereof, &c.

See Aldreds Case. Cook 9. fo. 59.

This Cause was compounded.

Challenge.

Challenge for that the Sheriff is father to the Wife of the Plaintiff.
Mich 17. and
18. Eliz. rot.
20511:

At which day here came the parties &c. And the Sheriff did not send the writ: And hereupon the same E B saith, that after the last continuance of the Plea aforesaid (that is to say) after the month of St. Mich. last past, from which day the Plea aforesaid was last continued here until this day (that is to say) the fifteenth day of November last past: The Lady by the Queen that now is, by her Letters patents hath committed to one J C Esquire, the custody of the County aforesaid: By precept of which said Letters patents, the same J is now Sheriff of the same County: And that the said E did marry C the daughter of the said J C still being in full life. And for that cause prays a writ of the said Lady the Queen to cause to come twelve, &c. to be directed to the Coroners of the said Lady the Queen in the County aforesaid. And because the aforesaid R D this doth not deny, it is granted

granted to him, &c. Therefore it is commanded the Coroners of the said Lady the Queen in the County aforesaid, that they cause to come here, in eight dayes of Saint Hillary twelwe, &c. by whom, &c. And who neither, &c. to recognize in saime aforesaid, &c.

And the aforesaid WR likewise, and hereupon the aforesaid I saith, that H. 44. Eliz. Rot. 1543. the said I H Esquire, is now Sheriff of the County aforesaid, which said I H is the Cousin of the said I (that is to say) the Son of I H Knight, Father of A, the other of the same I, and the same I further saith, that in the County aforesaid, there are two Coroners onely, namely CS and IB, and that the same holdeth of the said I, one Close of Pasture with the Appurtenances in L, in the County aforesaid by fealty, and the rent of forty six Shillings and eight pence, every yeare at the Feast of the Annunciation of the Blessed Virgin Mary, and Saint Michael the Archangell, by equall portions yearly to be paid. Challenge of one of the Coroners for holding Land of the Plaintiff.

And for these Causes he prays a Writ of the Lady the Queen that now is, to cause to come here twelwe, &c. to the aforesaid IB, the other Coroner of the said Lady the Queen of the County aforesaid to be directed, so that the aforesaid C in nothing doe intermedle, &c. And because the said WR the Premises doth not deny, but confesseth those averments to be true, it is granted to the said I, &c. Therefore it is commanded the aforesaid IB, the other Coroner of the said Lady the Queen of the County aforesaid, that he cause to come here in the morrow of the Holy Trinity, twelwe, &c. by whom &c. And who neither, &c. To recognize, &c. Because as well &c.

And hereupon the same RB saith, that IR Esquire, is now Sheriff of the County of H, which said Sheriff is the Kinsman of the same RB, for that he married S the Daughter of PS Esquire deceased, the Father of S, the other of B, now the wife of the said RB, now the Plaintiff, which said S is till alive and in full life (that is to say) at P aforesaid : And the same RB further saith, that in the aforesaid County of H, there are two Coroners onely, namely IB and IG Gent. and that the said IB one of the said Coroners is the Cousin of him the said IB (that is to say) the Son of A, Daughter of E, Daughter of M, Daughter of WB Esquire, Father of E, Mother of I, Mother of the said R now Plaintiff : And also that the aforesaid IG another of the Coroners aforesaid, holdeth of the same RB as of his Mannor of C, in the aforesaid County of H one messuage, &c. with the Appurtenances in C aforesaid, by Knights service, and the aforesaid J and J the challenges aforesaid do not deny, but the same doe well confesse : And hereupon as well the aforesaid JB as the said J and JC pray that the Justices here, by their discretion chole certaine indifferent persons to cause to come here twelwe, &c. to try the issue aforesaid above joynd, whereupon the same Justices here, as well with the consent of the aforesaid RB, as of the said I and IC, have chosen and named T M Gent. and IE Gent. to cause to come here twelwe, &c. to try the issue aforesaid above joynd, therefore it is commanded the same TM and IE, that they cause to come here from the day of the Holy Trinity, in three weeks, twelwe, &c.

And hereupon the same H. and J. Tate say, that the same J. Tate and one H. H. are now Sheriffs of the aforesaid City of Bristol : And for that cause pray a Writ of the Lord the King to cause to come here twelwe, &c. to try the Issue aforesaid, to the aforesaid H. H. the other Sheriff of the same City of B. to be directed : And because the aforesaid J. D. this doth not deny, it is granted to them, &c. Therefore it is commanded H. H. the other Sheriff of the City aforesaid, that he cause to come here from the day of the holy Trinity, in three weeks, twelwe, &c. by whom, &c. and who neither, &c. to recognize, &c.

Challenge because one of the Sheriffs is one of the Plaintiffs T. 5. Jac. roll. 3304.

Conspiracy.

T 17. Jac. rot. 3211. *Brownlow, Norff. T. D. late of, &c. R. A. late of, &c. and R. R. late of, &c.* were attached to answer *J. C. Clerk, of a Plea* wherefore by Conspiracy between them at *T.* in the County aforesaid, before had, the said *J. C.* for that, that he the last day of *D.* in the fifteenth year of the Reign of the Lord the King that now is of *England, &c.* with force and armes, &c. at *T.* aforesaid, one Lamb of the price of foure shillings six pence, of the Goods and Chattels of one *R. A.* then and there found, feloniously did take, steal, and chase, against the Peace of the said Lord the King, his Crown and Dignity, before *A. H. Knight, T. H. Knight, O. S. and R. G. Esquires,* and others their Fellowes, Justices of the said Lord the King, for keeping the Peace in the same County, and also assigned to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the same County, at the generall Sessions of the Peace of the said King, holden at the Castle of *N.* in the County aforesaid, the seventh day of *Jan.* in the fifteenth year above said, of the said King, falsely and maliciously did procure him the said *J.* to be indicted, and him the said *J.* by that occasion to be taken, and him in the Goal of the said Lord the King, in the Castle of *N.* in the County aforesaid to be detained, untill the said *J.* before the said Justices and others their fellow Justices of the said King, at the said generall Sessions of the Peace, holden in the said County, at the said Castle of *N.* in the County aforesaid, according to the Law and custome of the Realm of the said Lord the King that now is of *England, &c.* the fifteenth above said, thereof was acquitted, to the great damage of the said *J.* and against the form of the Statute in this case provided, to the damage of the said *J.* of forty pounds, &c. And whereupon the said *J.* by *R. O.* his Attorney complaineth, wherefore by Conspiracy between them at *T.* in the County aforesaid, before had, the said *C.* for that that he the last day of *D.* &c. in the fifteenth year of the Reign of the Lord the King that now is, of *England, &c.* with force and armes, &c. at *T.* aforesaid, one Lamb of the price of foure shillings six pence, of the Goods and Chattels of one *R. A.* then and there found, feloniously did take, steal, and chase, against the Peace of the said Lord the King, his Crown and Dignity, before *A. H. Knight, T. H. Knight, O. S. and R. G. Esquires,* and others their Fellowes, Justices of the said Lord the King, for keeping the Peace in the same County; and also assigned to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the said County, at the generall Sessions of the Peace, of the said Lord the King, holden at the Castle of *N.* in the County aforesaid, the seventh day of *Jan.* in the fifteenth year above said, of the said King, to be indicted, and him the said *J.* by that occasion to be taken, and him in the Goal of the said Lord the King in the Castle of *N.* in the County aforesaid, falsely and maliciously procured to be detained, untill the said *J.* before the said Justices and others their fellowes Justices of the said Lord the King, at the said generall Sessions of the Peace holden in the County aforesaid, had been thereof acquitted, to the great damage of the said *J.* and against the form of the Statute in this case provided, to the damage of the said *J.* of forty pounds, and thereof he bringeth his Sute, &c.

Declaration in Conspiracy. H. 10. Jac. rot. 1155. between S. and P. E. 7. 8. rot. 386. Note that the Conspiracy ought to be brought where the Conspiracy was made, and not where the Indictment is.

A Nd the said *R. and R.* by *T. B.* their Attorney, come and defend the force and wrong, when; &c. And say, that the said *J.* ought not to have his said Action against them, because they say, that before the said time

Bar that the common report and fame was that the Plaintiff had stolne a

Lamb, and for that the Defendants caused him to be indicted, and traversed the conspiracy.

in which it is supposed the said *J.* of the said Felony to be indicted, and before the said last day of *D.* in the fifteenth year above said, of the said Lord the King that now is of *England*, &c. in the Declaration aforesaid above specified, that to say, the eight and twentieth day of *D.* in the fifteenth year above said, at *T.* aforesaid, the said *R. A.* was possessed of the Lamb aforesaid, in the said Declaration above specified, as of his own proper Lamb, and so thereof being possessed, that Lamb by certain Malefactors unto the said *T. R.* and *R.* unknown, the said last day of *D.* in the fifteenth year above said, at *T.* aforesaid, from the possession of the said *R. A.* was feloniously taken, stolen, and chased, whereupon the common voice and fame was at *T.* aforesaid, that the said *J.* had feloniously taken, stolen, and chased the said Lamb. And thereupon the said *R. A.* the said *J.* upon the common voice and fame aforesaid, having great suspicion that the said *J.* was guilty of that Felony, the said *R. A.* afterwards that is to say, the first day of *Jan.* in the fifteenth year above said, of the said King, went to one *E. B.* Knight, then one of the Justices of the said King, assigned to keep the peace of the said Lord the King in the County of *N.* and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors in the same County committed: And unto the said *E. B.* then and there did complain, that the common voice and fame was at *T.* aforesaid, that the said *J.* had feloniously taken, stolen, and chased the said Lamb from the said *R. A.* and thereupon procured a Warrant of the same *E. B.* in writing against the said *J.* that the said *J.* immediately after the Receipt of the said Warrant should appear before him: By virtue of which said Warrant the said *J.* appearing before the said *E. B.* the said *E. B.* did then and there examine the said *J.* of the said Felony, and upon the examination of the said *E. B.* the said *J.* then and there said, that he could not deny but that he had taken the said Lamb, whereupon the said *E. B.* the said first day of *Jan.* in the fifteenth year above said, at *T.* aforesaid, according to the form of the Statute in this case made and provided, by recognizance, did bind over the said *J.* to appear before the said Justices of the said Lord the King, assigned to keep the peace in the said County, and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the same County, at the next generall Sessions of the peace of the said Lord the King, to be held at the said Castle of *N.* and then and there to answer of, and upon those things which should be objected to him, then and there on the behalf of the said Lord the King, as him the said *R. A.* and the said *T. R.* and *R.* being present at the examination of the said *J.* to give in evidence against the said *J.* of and upon the Felony aforesaid, by the said *J.* supposed to be committed: And the said *T. R.* and *R.* further say, that at the said generall Sessions of the peace of the said Lord the King, holden at the said Castle of *N.* in the *S.* there, the said seventh day of *Jan.* in the fifteenth year above said of the said King, before the said *A. H.* Knight, *T. H.* Knight, *O. S.* and *R. G.* Esquires, and others their fellowes Justices of the said King, assigned to keep the peace in the same County, and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the same County, the said *T. R.* & *R.* by the said Recognizance in form aforesaid bound did give in evidence, to the great Inquest, then and there charged and sworn, to enquire for the body of the County of *N.* certain Articles to them delivered, then and there for the said Lord the King, in the same County committed against the said *J. C.* of, and upon a certain Indictment against him the said *J.* to the Jurors aforesaid, then and there exhibited, for that that he the last day of *D.* in the fifteenth year of the Reign of the Lord the King that now is, of *England*, &c. with force and armes, &c. at *T.* aforesaid, the said Lamb of the price of four shillings six pence, of the Goods and Chattels of the said *R. A.* then and there found, did take, steal, and chase, against the Peace of the said Lord the King, his Crown and Dignity, according to the form and effect of the Recognizance aforesaid, that the said *J.* the said Lamb of the said *R. A.*

had: And that the said *J.* before the said *E. B. Knight*, one of the Justices of the Lord the King of the Peace as aforesaid, had acknowledged himself to have had the said Lamb, whereupon the Jurors aforesaid, the said Bill of Indictment, to them against the said *J.* as aforesaid exhibited, did present the Bill to be true, as it was lawfull for them to do; without that, that any Conspiracy was before had, between the same *T. R.* and *R.* to indict him the said *J.* falsely and maliciously of and upon the said Premises made, as the said *J.* above against them doth complain. And this they are ready to prove, whereupon they pray Judgment if the said *J.* ought to have his said Action against them, &c.

And the said *J.* saith, that he by any thing before alledged, ought not to be barred from having his said Action, because he saith, that the Conspiracy was, before had, between the said *T. R.* and *R.* to procure him the said *J.* falsely and maliciously to be indicted of and upon the premises, as the said *J.* above against them hath alledged. And this he prayeth may be enquired of by the Country; and the said *T. R.* and *R.* likewise; Therefore it is commanded the Sheriff that he cause to come, &c.

Plaintiff maintains his action:

T. 21. Jac. rot. 1946. Brownlow, Norff. ss. J. L. Gent. F. E. And whereupon the same *E.* by *G. M.* her Attorney complaineth, wherefore by Conspiracy between the said *J.* and *J. R.* late of, &c. and *G. T.* late of, &c. before had, the said *J.* the first day of *March*, in the nineteenth year of the Reign of the Lord the King that now is of *England*, at *N.* aforesaid, her the said *F. E.* by colour of a certain Precept issuing out of the Court of the Lord the King, holden before *P. S.* Alderman of the Borough of *N.* aforesaid, without any reasonable cause, had procured falsely and maliciously to be taken and imprisoned, and in prison there to be detained, untill the said *F.* a Fine, by two shillings, for her deliverance to be had with the said *J. R.* had made, whereupon she saith, that she is the worse, and hath damage to the value of forty pounds, and therefore she bringeth her Sute, &c. The Defendant pleads not guilty of the premises.

Conspiracy.

Covenant.

I slate of *C* in the County aforesaid *Peoman*, &c. was summoned to answer *T. F.* of a Plea, that he keep with him the Covenant between them made, according to the force, forme, and effect of certaine Indentures thereof betwixt them made, &c. And whereupon, &c. (recite the whole Indenture, and for breach as it followeth) in fact the same *T* saith, that the aforesaid *I* after the making of the Indenture aforesaid, did not pay to the said *T* six pounds, of the aforesaid Rent of foure and twenty pounds, in or upon the Feast of the Annunciation of the Blessed Virgin Mary, in the third yeare of the reign of the Lord the King that now is.

And the same *T* further in fact saith, that the aforesaid *I* did not pay to the same *T* other six pounds of the aforesaid yearly rent of four and twenty pounds, in or upon the Feast of the Nativity of *St. Iohn the Baptist*, in the fourth yeare of the reign of the Lord the King that now is: And the same *T* further in fact saith, that the aforesaid *I* did not pay to the same *T* other six pounds of the aforesaid yearly rent of four and twenty pounds, in or upon the Feast of *Saint Michael the Archangell* in the fourth yeare aforesaid, which to him in or upon the aforesaid severall Feasts he ought to have paid according

Count for not paying of rent, and not bringing in of Stone-Lime, according to covenants, and for cutting down of Trees, and quick-hedges, before they were new made.

Corrected by R. Moyle Prothonotary M. 4. of King Charles.

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ding to the form and effect of the Indenture aforesaid: And the same T further in fact saith, that the aforesaid I after the making of the Indenture aforesaid, and before the day of obtaining of the Originall Writ of the same T (that is to say) the day of in the said third yeare of the reign of the Lord the King that now is at F aforesaid, did Plow, Till, and Sow with Wheat one Close of Land called the H Downe, containing by estimation three Acres, parcell of the Tenements afoz. said, with the Appurtenances above demised, and that the same I, before the Plowing and Tilling of the same three Acres of Land, did not bring in, or allow ten Hogsheads of Stone-Lime to every Acre of the said three Acres of Land to be brought in, and allowed, and that the same I after the making of the Indenture aforesaid, and before the day of obtaining of the aforesaid Originall Writ of him the said T (that is to say) such a day and year, at F aforesaid, did Plow, Till, and Sow a certain other Close of Land called, &c. And so count of severall Plowings, and Sowings in severall Closes as before to be brought in, and allowed, as the aforesaid I ought to have brought in and allowed according to the forme and effect of the Indenture aforesaid, and the same T further in fact saith, that the aforesaid I after the making of the Indenture aforesaid, and before the day of the purchase of the Originall Writ of the same T (that is to say) such a day and yeare at F aforesaid, did cut down two hundred Cart-loads of Wood growing in two hundred Poles of quick-hedges of four Closes of Land, Meadow, and Pasture, parcell of the Tenements aforesaid, with the Appurtenances above demised, called the H, the W &c. where those Closes, where the Hedges aforesaid, by the said IS so cut down did belong before the time of such cutting, lopping, and cutting down were not tilled, contrary to the forme and effect of the Indenture aforesaid: And so the same T saith, that the aforesaid IS although often times required the Covenant aforesaid, of that that the same I by the Indenture aforesaid for himself, his Executors, Administrators and Assignes, and for every of them did Covenant and promise to and with the said T F his Executors, and Assignes, and to and with every of them by the Indenture aforesaid, that he the said I D, his Executors or Assignes, for the Tenements aforesaid, should render, content, and pay to the said T F, his Executors, Administrators, or Assignes, the yearly rent of four and twenty pounds of lawfull money of Eng. in and upon the four most usual Feasts or Terms in the yeare (that is to say) at the Feasts of the Annunciation of the Blessed Virgin Mary, the Nativity of Saint John the Baptist, Saint Michael the Archangell, and the Birth of our Lord, by equall and even parts and portions, quarterly to be yeilded and paid, during all the aforesaid Terme: And the Covenant aforesaid of that, that the aforesaid IS for himselfe, his Executors, Administrators, and Assignes, and every of them further did covenant, promise, and grant to and with the said T F his Executors, and Administrators, and Assignes, and to and with every of them by the Indenture aforesaid, that he the said IS, his Executors, or Assignes should bring in and bestow in every Acre of the Premises aforesaid, which the said IS should till ten Hogsheads of Stone-Lime, and burnt (that is to say) to bring in and bestow in every Close, in which he the said IS should till as many times ten Hogsheads as the aforesaid Closes be tilled severally, before that time had been esteemed to be, or had been, three Acres, two Acres, one Acre, and halfe an Acre, either more or lesse, according to the rate or proportion of ten Hogsheads in every Acre, and the aforesaid Lime so to be brought in, and allowed in every severall Close, before that the aforesaid I, upon the same should till in fit time, and then according to the usuall order of good husbandry (two parcels of Land of the aforesaid Premises called, &c. containing by estimation six Acres alwayes excepted) and also that the aforesaid IS, his Executors, or Assignes should bring in, and allow in every Acre of the aforesaid two parcels of Land, five Hogsheads of

good Lime, in manner and forme aforesaid, and the covenant aforesaid, of that that the said I S by the Indenture aforesaid, did covenant and promise, that neither he the said I S, his Executors or Assignes, nor any other person or persons whatsoever, by his or their permission or procurement at any time within the Terme aforesaid, should sell, lop, or cut downe any wood growing in the hedges of the Premises, unlesse it should be of such quick hedges of such Closes of the Premises aforesaid belonging, as the said I S, his Executors or Assignes, had tilled, hath not kept with the same: I but broken, and the same hithereto to keep with him he hath denyed, and still doth deny, whereupon he saith, that he is the worse, and hath damage to the value of one hundred pounds: And thereof he bringeth Date, &c.

Cornwall H. CH late of B in the County aforesaid Gent. CH of B, in the County of Cornwall Gent. was summoned to answer I C Esquire, of a Plea that he keep with him the Covenant between them made, according to the force, forme and effect of certain Indentures thereof between them made, &c. And whereupon the same I by F G, his Attorney saith, that whereas the aforesaid C, by a certaine Indenture made at K, such a day and yeare between the aforesaid C, by the name of CH of B, in the County of C Gent. of the one part, and the said I by the name, &c. of the other part, The other part of which said Indenture with the Seale of the aforesaid CH, signed the same I here in Court theweth forth, the date whereof is the same day and yeare, it is witnessed that the aforesaid CH for and in consideration of the sum of two hundred & eleven pounds of lawful money of Eng. to him by the said I C, before the sealing of the Indenture aforesaid, well and faithfully satisfied and paid, whereof the aforesaid CH by the Indenture aforesaid, did acquit and release the said I C, his Executors, and Administrators for ever, had given, granted, bargained, sold, enfeoffed, and confirmed, and by the Indenture aforesaid did give, grant, bargain, sell, enfeoff, and confirme to the said I C, his Heires, and Assignes for ever, all the Mannors of, &c. with all the rights, parts, members, Hereditaments, and Appurtenances whatsoever thereof, or to the same incident, or belonging, and all those Messuages, Lands, Tenements, or Hereditaments, with the Appurtenances commonly called, and known by the name and names of, &c. in the Parish of K, in the County of C, and also all and singular the Houses, Coiffices, Buildings, Or, chards, Gardens, Meadows, Lands, Pastures, Feedings, Wastes, Commons, Doves, Parthes, Woods, Underwoods, Kents, Reberfions, Remainders, Duties, Services, Profits, Emoluments, Commodities, Liberties, Franchises, Immunities, and Hereditaments whatsoever, with the Appurtenances whatsoever, being part parcell or Members of the aforesaid Mannors of T, or of the Tenements in H, or to the same or either of them belonging, or so taken, reputed, and accepted, or with the same or either of them, or any part thereof, theretofole let, let, taken, and enjoyed, situate lying, and being within the Burgh and Parish of, &c. (the Mannors of T with all its parts, Members, and Appurtenances, out of the grant aforesaid excepted and forsworn) all which Premises the aforesaid CH had lately purchased to him and his Heires for ever of R T, of W Esquire, together with all Writings, Charters, Court-rols, Escripts, Minuments, and Evidences whatsoever concerning the Premises onely, or any part or parcell thereof, to have and to hold the aforesaid Mannors of T, and the aforesaid Premises in the said Parish of, &c. and all and singular other the Premises whatsoever with their Appurtenances, before by the Indenture aforesaid given, granted, bargained, sold, and confirmed, or meant, or intended to be given, granted, bargained, sold, enfeoffed, and confirmed to the aforesaid I C, his Heires, and Assignes for ever, to the use behoof use, & benefit of the said I C, his Heires and Assignes for ever, to be holden of the chief Lord of the fee thereof, by the rents,

An Action of covenant upon a sale of Lands in fee, and covenant to have power to doe such a thing, which he had not.
T. II, of King Charles, Moyle.
Drawn by Heuden Serjeant.

and

and services for the same accustomed and due to be paid : And the aforesaid C H and his Heirs, all and singular the premises, with the appurtenances, to the aforesaid I C his Heirs and Assignes for ever against all people would warrant, and by the Indenture aforesaid defend: And the aforesaid C H for himself, his Heirs, Executors, and Administrators, and every of them, by the Indenture aforesaid, did covenant, promise and grant to and with the aforesaid I C his Heirs, Executors, Administrators and Assignes, and to and with every of them, that he the said C H at the sealing and delivery of the Indenture aforesaid, was the true owner, and lawfully seised of and in every the premises, with their appurtenances, before by the Indenture aforesaid given, granted, bargained, and sold, or intended to be given, granted, bargained and sold, and of every part and parcel thereof, with their appurtenances, of a good, perfect and indefeasible estate of inheritance in fee-simple, without any defeasance, condition or limitation, use or trust to avoid, alter, change, determine or transferre the same : And that he had full power, good right, ability, and authority in law to grant, bargain, sell, infeoffe and confirm the same, and every part and parcel thereof to the said I C his Heirs and Assignes in manner and form abovesaid, and according to the meaning of the Indenture aforesaid. And the aforesaid C H for himself, his Heirs, Executors and Administrators, and every of them, &c. that for the consideration abovesaid mentioned, the said C H and his Heirs, and all and every other person and persons, and his and their Heirs which then were, or at any time after should stand and be seised of and in the premises abovesaid in the aforesaid present deed mentioned or intended to be given, granted, bargained, sold, infeoffed and confirmed, or of any part or parcel thereof should stand and be seised of and in the same, to the use and behoof of the said I C and his Heirs and Assignes for ever, as by the same Indenture it more fully appeareth.

And the same I C further saith, that although he from the time of the making of the Indenture aforesaid, unto the day of obtaining of the original writ of the same I, hath well and faithfully observed, performed, fulfilled and kept all and singular the Covenants, Grants, and Agreements in the Indenture aforesaid abovesaid specified, on the part of the said I to be observed, performed, fulfilled and kept, according to the form and effect of the Indenture aforesaid; protesting also, that the aforesaid C H hath not observed, performed, fulfilled or kept any Covenant, Grant, or Agreement in the Indenture aforesaid abovesaid specified on the part of the same C to be observed, performed, fulfilled and kept, according to the form and effect of the Indenture aforesaid :

In fact the same I saith, that the aforesaid C at the time of the sealing and delivery of the Indenture aforesaid, here in Court shewed forth, was not the true owner, and lawfully seised of all and singular the premises aforesaid, with the appurtenances (except before excepted) before by the same Indenture given, bargained, granted and sold, or mentioned and intended to be given, granted, bargained and sold, and of every part and parcel thereof, with the appurtenances, of a good, perfect and indefeasible estate of inheritance in fee-simple, without any defeasance, condition, or limitation of use or trust, to make void, alter, change, determine or transferre the same, according to the form and effect of the Indenture aforesaid :

And the same I further in fact saith, that the aforesaid C at the time of the sealing and delivery of the Indenture aforesaid, here in Court shewed forth, had not full power, good, right, ability, and authority in law, to grant bargain, infeoffe, and convey the premises aforesaid, in the Indenture aforesaid, abovesaid specified, and every part and parcel thereof to the said I C his Heirs and Assignes, according to the form and effect of the same Indenture,

And so the same I saith, that the aforesaid C, although oftentimes required, the Covenant aforesaid of that, that the aforesaid C by the Indenture aforesaid,

for himself his Heirs, Executors, and Administrators, and every of them, did covenant, promise, and grant, to and with the said I C, his Heirs, Executors, and Assignes, and to and with every of them, that he the said C H at the sealing and delivery of the Indenture aforesaid was the true owner, & was lawfully possessed of all and singular the premises, with the appurtenances, before by the Indenture aforesaid given, granted, bargained, and sold, or mentioned and intended to be given, granted, bargained and sold, and of every part and parcel thereof, with the appurtenances, of a good, perfect and indefeasible estate of inheritance in fee-simple, without any defeasance, condition, or limitation of use, or trust to make void, alter, change, determine, or transference the same: And that he had full power, good right, ability and authority in law, to grant, bargain, sell, infeoffe and convey the premises aforesaid, in the Indenture aforesaid, above specified, and every part and parcel thereof to the said I C his Heirs and Assignes, according to the form and effect of the same Indenture, with the said I hath not kept but broken; and the same to keep with him he hath hitherto denyed, and still doth deny, whereupon he saith, that he is the wrongdoer, and hath damage to the value of five hundred pounds, and thereof he bringeth suit, &c.

Assd the aforesaid R P saith, that he by any things before alleged ought not to be barred from having his Action aforesaid, because by protesting that the aforesaid R D & E have not observed, performed, fulfilled or kept any things in the Indenture aforesaid above specified on their parts to be observed, performed, fulfilled or kept, according to the form and effect of the same Indenture, as the aforesaid R hath above alleged: For plea saith, that after the making of the writing aforesaid, and within ten years then next following (that is to say) the nine and twentieth day of J, in the tenth year of the reign of the Lord the King that now is one W H Esquire, of counsel learned in the Law with the same T P at the City of York did devise and bring into writing a certain note of a certain fine by the aforesaid R E to the same R of the Tenements aforesaid, with the appurtenances, in the Court of the Lord the King of the Bench at Westminster, to be leved in these words: Yorkhire Sh. Command R D and E his Wife, that justly, &c. they keepe with R P gent. the Covenant, &c. of two Messuages, two Gardens, two Orchards, one hundred & thirty acres of Land, thirty acres of Meadow, thirty acres of Pasture, pasture for sixteen Cattel, ten acres of Heath and Furzes, three shillings and four pence rent, common of turbary, and common of pasture for all Cattel, with the appurtenances, in F and B. O. B. And unlesse, &c. And the agreement is such (that is to say) that the aforesaid R and E do acknowledge the aforesaid Tenements, Rent, and Commons, with the appurtenances, to be the right of him the said R, as those which the same R hath of the gift of the aforesaid R and E: And the same they have remised and quite claimed from the same R and E and their Heirs to the said R and his Heirs for ever. And besides the same R and E have granted for themselves and the Heirs of the same E, that they will warrant to the said R and his Heirs the aforesaid Tenements, Rent and Commons, with the appurtenances, against them the said R and E, and the Heirs of the same E, and against the Heirs of S L for ever. And for this, &c. which said note of the fine in form aforesaid devised and brought into writing, the same R P the same nine and twentieth day of J in the above said tenth year of the reign of the Lord the King that now is, at the aforesaid City of York did shew and deliver to the aforesaid R and E, and then and there did require the same R and E to come and to acknowledge the same note before J A Knight, then and there one of the Justices of the Lord the King, assigned to take Assizes in the aforesaid County of York, then being at the City of York: Which said note of the fine aforesaid before the said Justices of Assizes, to acknowledge the aforesaid E did then and there utterly refuse,

A Replication and breach assigned for the not acknowledging of a fine, according to the form of the Indenture.

The command and agreement.

contrary to the form and effect of the Covenant in the aforesaid Indenture above specified. And this he is ready to verify, whereupon he prayeth judgment, and his debt aforesaid, together with his damages, by occasion of the detaining of that debt to him to be adjudged, &c.

*T 22 of King
Charles Roll.
201.
An action
of covenant up-
on an Indenture
charter partie
brought by 2
Partowners of
a Ship against a
Merchant who
had the same of
their demise to
freight it by the
moneth for 6
months at fifty
pound a moneth
&c. in a voyage
from the Port
of the Citie of
London to
foreign parts
beyond the Seas
and back
again.*

London ff. *Richard Leigh*, late of London Merchant, o. c. *R L of L M* was summoned to answer *A B* and *S P* Esquier of a plea, that he keep with them, the covenant between them made, according to the force, form and effect, of certain Indentures thereof, between them made, &c. And whereupon the same *A* and *S* by *M S* their Attorney, say, that whereas by a certain Indenture made at London, in the parish of blessed *Mary* of *Bowe*, in the ward of *Cheape*, the last day of *M*, in the eighteenth year of the reigne of the Lord the King that now is, between them the said *A* and *S* by the names of *A B* and *S B* Partowners of the good Ship, called the *Tercera*, Merchant of London, of the burden of one hundred and forty Tunnes, or thereabouts ryding at anchor in the river of *Thames*, within the Port of the City of London, of the one part, and the aforesaid *R* by the name of *R L of L M* on the other part; Of which Ship *E R* Maryner is Master under God for the present intended Voyage. The other part whereof with the seale of the aforesaid *R* signed, the same *A* and *S* here in Court shew forth, the date whereof is the same day and year. It is witnessed that whereas the said Partowners have granted and demised, to freight the said Ship to the same Merchant by the moneth, for and during the full time and space of six moneths from the day of the arrivall of the said Ship at *Gravelend*, outwards bound, to be accounted at and for the rate and price of fifty pounds of lawful money of *England*, by the moneth, accounting the moneths which should happen, and for such and so long time after the said six moneths expired, not exceeding six months more as it should please the said Merchant, or his Factor, to keep the said Ship in his service at the like rate and price of fifty pounds of lawfull money by the moneth, and so according to the rate for a lesse time then a moneth. And that the aforesaid Merchant, had so freighted and byred the said Ship for the voyage with her to be made, by the blessing of God, in manner following, that is to say, The said Partowners for themselves, and either of them, and either of their executors and administrators, did covenant and grant to and with the said Merchant, his executors and administrators, by the same Indenture, that the said Ship should be ready to depart from the said Port of the City of London for the service and businesse of the same Merchant, upon or before the fourth day of *Aprill*, then next following, And should be then strong and stanch, and well and sufficiently apparelled, and furnished with ten pieces of Ordinance; and with a boat, Masts, sayles, sayle yards, anchors, cables, ropes, cordes, a sufficient quantity of gunpowder, Artillery, shott, tackle, apparell, and furniture necessary for the said Ship in her said intended voyage. And the aforesaid Merchant, for himself his executors and administrators, did covenant and grant to and with the said Partowners, their executors and administrators, by the same Indenture, well and sufficiently to man, and victuall the said Ship with the said Master, and eighteen men, and a boy, and with victualls fit and requisite for the said intended voyage; And by the same Indenture, it was agreed by and betwene the said parties to the same Indenture, for themselves, their executors and administrators, that the said Merchant, his factors and assignes, should or might, during the said voyage, place, direct and appoint, the said Master, mariners, and fellowes, of and in the said Ship for the carrying guiding and conducting of the same Ship from the aforesaid Port of London, to *Gravelend*; and from thence to such ports and places, and from Port to Port, out of the freights of *Gibraltar*, where the said Ship may safely arrive, and lawfully have commerce, Except *Braselle* and the *West Indies*, as it should please the said Merchant or his factors from time to time during the said intended voyage, to direct, order, or appoint. And that the said Ship should be at all times during

the said voyage, imployed by the said Merchant and his factors, in loading, unloading, and loading again, of such goods and merchandises, and in performing and doing such other usuall and lawfull affairs and buisnesses, as the same Merchant or his factors from time to time or at any time during the said voyage should ordain or appoint. And the said Ship being dispatched from the last Port or place of imployment should depart from thence, and directly as the wind and wether should serve, should sayle, returne, and come back againe from thence to the said River of *Thames*, within the said Port of the Cittie of *London*, as neare the said Cittie as safely hee might arrive there at Anchor, to make his unloading and an end of his said intended voyage and busines. And the said Merchant for himself, his executors and administrators, did covenant, promise, and grant to and with the said Partowners, their executors and administrators, by the same Indenture, to give order and direction to the same Master of the said Ship, for the going out of the same Ship from the aforesaid Port of *London*, and the going forward in the said voyage with the first faire wind after the said fourth day of *April*, and to end the said intended voyage and busines of the said Ship, at the Port of *London*, within twelve moneths above limited at the farthest; And within the same time to bring back againe, or cause to be brought back againe the said Ship into the said River of *Thames*, within the said Port of the Cittie of *London*, as neare the said Cittie as hee might safely arrive, and there to deliver, and leave the said Ship to or for the said Partowners or their assignes, together with the boate, maste, sayles, saleyards, ordinance, and all other the furniture above mentioned, to the said Ship belonging, in as good case, and condition as the same were at the going out of the same Ship, from the said River of *Thames*, upon the said voyage (the reosonable use wearing and tearing thereof, and casualltie of the Sea excepted) and also well and truly to pay or cause to be paid to the same Partowners, their executors and assignes, for all such time, and for so many moneths, as the said Ship should remaine in the service and busines of the same Merchant, or his factors, to be computed from the day of the arrivall of the said Ship at *Gravesend*, outward bound, as is abovesaid, untill its return and unloading in the said River of *Thames*, freight after the said rate, of fifty pounds a moneth, and so according to the same rate for a lesse time then a moneth, in manner and form following, that is to say, six moneths pay thereof within sixty daies after a certificate in writing given to or left for the said Merchant, at his house in *London*, that the said Ship was safe at the end of six moneths and the rest and residue of the freight arrear, and not paid as followeth, that is to say, one halfe or moiety thereof within ten daies after the retorne and unloading of the said Ship in the River of *Thames*, and another halfe or moiety within sixty daies then next following together with the average, primage and Pettloadumage paid & accustomed for English Ships: And likewise to bear, pay, and discharge all the wages of the Master, Mariners, and fellowes of and in the said Ship, and all Port-charges, Pilottage, and ballastinge, which should be due and payable during the voyage aforesaid and of and from the same and every part thereof should clearly acquite and discharge the said Ship and Owners of the same, and every of them: Provided alwaies, and it was agreed, that if the said Ship should return and come back again into the said River of *Thames*, and should end her said intended voyage before the expiration of the said first six months, Nevertheless the said Merchant his executors or assignes, should pay to the same Partowners, their executors or assignes, in *London*, such and so much freight, and somes of money at the end of the same voyage, as if the aforesaid Ship had served for full six months (any thing aforesaid to the contrary thereof in any wise notwithstanding.) And it was agreed by and between the said parties, to the same Indenture, that in case the said Ship, having her outward loading unloaded, should trade to and from Port to Port, and during such her busines should happen to be lost or cast away, which God forbid, then all such wages, as according to the rate aforesaid from time to time should be earned, with and by the said Ship

from the time of the entring of the same Ship into pay, as is abovesaid, unto the the unloading of her goods at the last Port, should be paid to the same Partowners, or their assignes in *London*, within two moneths next after certain notice given, or left, to and for the said Merchant at his house in *London*, of such losse, miscarriage or casting away of the said Ship, any thing aforesaid to the contrary notwithstanding: And for the true performance of all and singular the covenants, grants, articles, and agreements above recited, which on the part & behalf of the same Partowners, their executors and administrators, should be well & truly helde, kept and performed in all things, as above it hath been expressed, the said Partowners had bound themselves and either of them, their, and either of their executors and administrators, and the Ship aforesaid, with the freight, tackle, boat, and furniture thereof, to the same Merchant, his executors and administrators, in the sum or penalty of one thousand pounds of lawfull money of *England*, well and truly to be payed, by the same Indenture: And likewise to the said performance of all and singular the covenants, grants, articles, payments, and agreements above recited, which on the part and behalfe of the said Merchant, his executors, administrators, or assignes, or any of them, should be well and truly held, kept and performed in all things, as hath been above expressed, the said Merchant had bound himself, his executors, administrators, and goods, to the same Partowners, their executors and administrators, in the like sum or penalty of one thousand pounds of like money, well and truly to be payed, by the same Indenture, as by the the same Indenture it more fully appeareth. And the same *A* and *S* say, that although they have fulfilled all and singular the covenants, grants, and agreements, in the Indenture aforesaid above specified, on their part to be fulfilled and performed, according to the forme and effect of the Indenture aforesaid, And by protesting that the aforesaid *R* hath not fulfilled or kept
Breach assigned. any of the covenants, grants, or agreements, in the Indenture aforesaid above specified on his part, to be fulfilled and performed: In fact the same *A* and *S* say, that after the making of the Indenture aforesaid, and before the day of the purchase of the originall Writ of them the said *A* and *S*, that is to say, the fourth day of *Apr.* in the eighteenth year of the reign of the said Lord the King that now is, the Ship aforesaid, at *London* aforesaid, in the parish and ward aforesaid, was ready to depart from the aforesaid Port of the Citie of *London*, in the service and busines of the said Merchant, and then was strong and stanch, and well and sufficiently apparelled and furnished, with ten peeces of ordinance, boat, masts, sayles, sayleyards, anchors, cables, ropes and cords, a sufficient quantity of gunpowder, Artillery, shot, tackle, apparell and furniture necessary for the said Ship, and for the aforesaid intended voyage: And that the Ship aforesaid, afterwards, that is to say, the same fourth day of *Aprill*, at *Gravesend*, in the County of *Kent*, did arrive outward bound in the said voyage, and from thence by the space of twelve moneths next following, from the aforesaid fourth day of *A* to wit, untill the fifth day of *Aprill*, in the nineteenth year of the reign of our Lord the King that now is, was, and remained in the service and busines of the same *R.* or his factors. And the same *A* and *S* further say, that after the end of six moneths, from the aforesaid fourth day of *Aprill*, in the eighteenth year abovesaid, that is to say, the last day of *D* in the eighteenth year abovesaid, a certain certificate in writing was given and left to and for the said *R* at his house in *London*, that is to say, in the parish of *Saint Hellen*, in the ward of *Bishopsgate*, that the said Ship was safe at the end of six moneths next after the aforesaid fifth day of *Aprill*, in the eighteenth year abovesaid, which day, and the aforesaid fourth day of *Aprill*, the Ship aforesaid, so as aforesaid, was in the service of him the said *Richard*, or his factors: And the same *A* and *S* further say, that three hundred pounds for the aforesaid six moneths pay, within sixty daies next after the aforesaid last day of *D* in the eighteenth year abovesaid, that is to say, the second day of *March*, in the eighteenth year abovesaid, were due and payable to the same *A* and *S*, by the aforesaid *R*, for the freight: And the same *A* and *S* further

further say, that the Ship aforesaid, afterwards, that is to say, the thirteenth day of *Aprill*, in the nineteenth year of the reign of the Lord the King that now is, at *London*, in the parish of blessed *Mary of Bowe*, in the ward of *Cheap*, returned and was unladen in the aforesaid River of *Thames*; And that one hundred & fifty pounds being the one half or moiety of the rest, or residue of the freight, within ten daies next after the returne and unloading of the Ship aforesaid, that is to say, the twenty fourth day of the same moneth of *Aprill*, in the nineteenth year abovesaid being in arrear, and not payed, were due and payable to the same *A* and *S*, by the aforesaid *R*. And that other one hundred and fifty pounds, being the other halfe or moiety thereof, within sixty daies next after the aforesaid twenty fourth day of *Aprill*, in the nineteenth yeare abovesaid, that is to say, the twenty fourth day of *June*, then next following, were due and payable by the aforesaid *R* to the same *A* and *S*, and that the said *R* hitherto hath not payd to the same *A* and *S*, the aforesaid three hundred pounds, nor the aforesaid several sums of one hundred and fifty pounds and one hundred and fifty pounds, nor any penny thereof, although the aforesaid *R* was oftentimes thereunto required. And the same *A* and *S* further say, that the wages of the Master, Marriners, and their fellowes of the Ship aforesaid, in the voyage aforesaid, do amount to three hundred sixty seven pounds and four shillings; and that the aforesaid *R* hath not born the payment and discharge of the same wages, and of the same hath not acquitted & discharged the said ship, & the said *A* and *S* being at the time of the making of the Indenture aforesaid, and untill the aforesaid twenty fourth day of *June*, and the same twenty fourth day of *June*, owners of the same: And the same *A* and *S* further say, that the aforesaid *R* within the aforesaid twelve moneths, next after the aforesaid fifth day of *A* in the eighteenth year abovesaid, which day the Ship aforesaid, as aforesaid did arrive at *Gravesend* aforesaid, that is to say, the fifth day of *A* in the nineteenth year abovesaid, did not bring back againe nor caused the said Ship to be brought back into the said River of *Thames*, within the said port of the Citie of *London*, as neere the said Citie as hee could safely to arrive, nor did hee deliver or leave the Ship aforesaid to and for the said *A* and *S* or their assignes, together with the boat, masts, sayles, sayleyards, peeces of ordinance, and all other the furniture aforesaid, to the same Ship belonging, in as good case and condition, as the same were at the going out of the same Ship from the said River of *Thames*, upon the said voyage, (the reasonable use, wearing and tearing thereof and casualty of the Sea excepted :) And so the same *A* and *S* say, that the aforesaid *R* although oftentimes required, the covenant aforesaid, of that that the same *R* for himself, his executors and administrators, did covenant, promise and grant, to and with the said Partowners (And so verbatim, as before from such a mark * to such a mark † from the beginning to the end of the covenant) with the said *A* and *S*, hath not kept but broken, but the same with them hitherto to keep hee hath denyed, and still doth deny, whereupon they say, that they are the worse and have damage to the value of one thousand pounds, And thereof they bring suite &c.

John Finch late of *F* in the County aforesaid, gent o.c. *I F*. of *F*, &c. was summoned to answer *R Manhood*, one of the Justices of the Lady the Queen of the Bench, and *R H* &c. of a plea, that hee keep with them the covenant betwixt them made, according to the force form and effect of certain Indentures thereof between them made, &c. And whereupon, the same *R* and *R* by their Attorney say, that whereas by a certain Indenture made at *H*, the two and twentieth day of *S* in the seventeenth year of the raigne of the Lady the Queen that now is, between the same *R M* and *R H* by the names of *R M* &c. of the one part, and the aforesaid *I F* by the name of *I F*, &c. of the other part; The other part whereof with the scale of the said *I* signed, the same *R* and *R* here in Court shew forth, the date whereof is the same day and yeare, it is witnessed

Covenant of an
Indenture for
not sufficient
repairing and
building.
H. 21 Eliz.
roll. 908.

witnesed that the said *R M* and *R H*. by the same Indenture, did demise, and to farme let, to the aforesaid *I F*. all their mansion house and farme, called *H*. with the water mill, chappell, dovehouse, and all the houses, buildings, gardens, orchards, waters, fishings, landes, meadows, rivers, and pastures accepted, used, demised, occupied, or reputed as parcell, or appertaining to the same farme of *H*. and then in the occupation of *W. W.* or his assignes, and in manner of woods, and underwood, of and upon the premises: To live and to holde the aforesaid mansion house, messuage and farme, mill, laddes, and all other the premises by the same Indenture demised to the aforesaid *I F* and his assignes from the feast of *Saint Michael the Archangel* then next following, unto the end and terme of one and thirty yeares from thence next following, and fully to be compleat: Yelding therefore yearly, during the terme aforesaid to the same *R M*. and *R H*, their heirs and assignes, fifty pounds of lawfull money of England, at the feast of the Annunciation of the blessed Virgin *Mary*, and *Saint Michael the Archangel*, at the then mansion house of the said *R M*. at *Saint Stephens*, in *H. nere Canterbury*, by equall portions. And the same *R M*. for himself, and the same *R H*. and for their heirs executors and assignes and every of them by the same Indenture had covenanted to and with the aforesaid *I F* his executors and assignes, in manner and form following, that is to say, That the aforesaid *I F* and his assignes, ought and might dig and stub up all the Alders, and other trees growing or being in the low grounds, called the Brooks, parcel of the premises by the same Indenture demised, & the same so stubbed up to have and enjoy to his owne proper use. And the aforesaid *I F* for himself his heirs executors and assignes, by the same Indenture had covenanted and granted to an with the same *R M* and *R H*, their heirs and assignes in forme following, that is to say, that the aforesaid *I F* his executors and assignes, from time to time during the aforesaid terme, should sufficiently repaire and make up the aforesaid mansion house, mill, and other the premises, and the mill dams, barnes, fences and inclosures, of the premises from time to time, as often as need shoud be, and the same sufficiently repaired should leave at the end or other determination of the aforesaid terme: And that the whole crop of corne other then the hay, and pudware growing upon the premises, should be laid into the barne and expended there, and not elsewhere during the said terme: And it was provided by the same Indenture that the aforesaid *I F* his executors and assignes, at any time during the aforesaid terme, should not consent or suffer to be demised, granted, or by any means to be alienated, the term by the same Indenture demised, or any part thereof, to any person or persons without the consent of the aforesaid *R M* and *R H*, their heirs and assignes in that behalfe first had in writing, unless it should be to his wife, or sons, daughters, or mothers, or to his children of his body issuing. And if the aforesaid yearly rent of fifty pounds should happen to be in arrear and not paid by the space of foure daies next after either of the said feasts, at which it ought to have been paid, then five pounds to be forfeited & distrained for and in the name of a paine. And if the aforesaid yearly rent should happen to be behind by twenty eight daies after either of the aforesaid feasts that then it should well be lawfull for the same *R M* and *R H* their heirs and assignes, into the aforesaid mansion house, mill, and other the premises by the same Indenture demised, to re-enter, and the same to possesse as in their former estate, as by the same Indenture it more fully appeareth, And the same *R M* and *R H* in fact say, that although they have performed fulfilled, and kept all and singular the covenants in the Indenture aforesaid specified, on their parts to be performed, and fulfilled according to the forme and effect of the Indenture aforesaid, By protesting also that the aforesaid *I* hath not kept nor performed any of the covenants or grants in the Indenture aforesaid above specified on his part to be performed.

Breach assigned

The same *R* and *R* in fact say, that the aforesaid *I* from the time of the making

of the Indenture aforesaid hitherto hath not sufficiently repaired and made up the aforesaid mansion-house, mill, and other the premisses above demised, that is to say, one hall, to the value of seventy six shillings and eight pence, a certain inner parlour to the value of five shillings, (*& so recite all the places not repaired*) according to the forme and effect of the Indenture aforesaid: And so the said *R.* and *R.* say that the aforesaid *J.* although oftentimes required the covenant aforesaid of that that the aforesaid *J.* and his assignes from time to time during the term aforesaid, should sufficiently repair and make up the aforesaid Mansion-house, Mill, and other the premisses, and the Mill dams, Barns, Fences, and Inclosures of the premisses from time to time, as often as need should be, hath not kept with the said *R.* and *R.* but broken, and the same hitherto to keep with them he hath denied, and still doth deny, whereupon they say, that they are the worse, and have damage to the value of one hundred pounds, and thereof they bring Sure, &c.

And the aforesaid *J. F.* by *J. P.* his Attorney, cometh and defendeth the force and injury when, &c. and saith, that the aforesaid *R.* and *R.* ought not to have their Action aforesaid against him, because he saith, that he from the time of the making of the Indenture aforesaid, hitherto hath sufficiently repaired and made up the aforesaid Mansion house, Mill, and other the premisses above demised, according to the form and effect of the Indenture aforesaid. And of this he putteth himself upon the Country, and the aforesaid *R.* & *R.* likewise. therefore it is commanded the Sheriff that he cause to come &c. twelve, &c.

London ff.

Ew. late of, &c. &c. &c. was summoned to answer *J. H.* of a plea, that he keep with him the Covenant, &c. And whereupon the same *J.* by *T. L.* his Attorney saith, that whereas the City of London is an ancient City; In which said City there is, and from the time whereof the memory of man is not the contrary, there hath been such a Custome used and approved, that is to say, that every Infant being of the age of fourteen years and above, and within the age of one and twenty years, which should put himself an Apprentice to any one, to whom within the same City for the term of seven years or above, to be instructed in the Art of such a Citizen, and with him after the manner of an Apprentice to abide for the said term of seven years, or above, betwixt them agreed; And by his Indenture with his Seal sealed, and in the Court of the Lady the Queen, holden at the Guildhall of the same City, within one year and one day, after the date of the Indenture aforesaid, before the Mayor of the same City for the time being, enrolled, had covenanted with his Master to serve the same his Master after the manner of an Apprentice, during the said terme of seven years, or above, between the same Apprentice and his Master accorded, is holden and bound to serve such his Master after the manner of an Apprentice, during such term as aforesaid agreed: And if such an Apprentice by his said Indenture shall covenant with his said Master, that he, during the term between him and his said Master accorded, the same his Master should well and truly serve, as well in his Art, as in other his Precepts lawfull and honest, wheresoever to be done: And that he damage to the same his Master should not do, nor see to be done, nor from his Service should absent nor esloyn himself, but in all things as a good and faithfull Servant towards his Master he should behave himself, during the term betwixt them agreed. And if the Apprentice should do to the contrary thereof, and during the said term of seven years, or above, betwixt him and his Master agreed, after the manner of his Apprentiship, well and faithfully should not serve, that the Master of such an Apprentice should have such remedy against the same his Apprentice,

as he should have, if such an Apprentice at the time of the making of his Indenture aforesaid, should be of the full age of one and twenty years and more. And the same *J.* saith, that the aforesaid *E.* being within the age of one and twenty years, that is to say, of the age of fifteen years, the two and twentieth day of *J.* in the two and twentieth year of the Reign of the Lady the Queen that now is at *L.* in the Parish of blessed *Mary*, &c. by his certain Indenture made betwixt him the said *J.* of the one part, and the said *E.* of the other part; the other part whereof, with the Seal of the said *E.* signed, the same *J.* here in Court sheweth forth, the date whereof is the same day and year, had covenanted with the same *J. H.* &c. (as in the Indenture) as by the same Indenture is more fully appeareth; Which said Indenture, within one year and one day next after the date of the same Indenture, that is to say, such a day and year, before *A. B.* then Mayor of the City of *London*, at the *Guildhall* of the same City, was enrolled of Record. And the same *J.* further saith, that he is, and at the time of the making of the Indenture aforesaid, was a Citizen and Haberdasher of *London*, and inhabiting within the same City, and the Art of from the time of the making of the Indenture aforesaid, hitherto hath occupied. And the same *J.* further saith, that he well and faithfully hath performed, fulfilled, and kept all and singular the Covenants, Articles, and Agreements in the Indenture aforesaid above specified, on his part to be performed, fulfilled, and kept, according to the form and effect of the Indenture aforesaid: By protesting also that the aforesaid *E.* hath not performed, fulfilled, or kept any of the Covenants, Articles, or Agreements, in the Indenture aforesaid above specified, on his part to be performed, fulfilled, or kept, according to the form and effect of the Indenture aforesaid.

Breach assigned

In fact the same *J.* saith, that the aforesaid *E.* after the aforesaid Feast of the Purification of the blessed *Mary*, in the two and twentieth year above said, and before the end of the term of the aforesaid nine years, in the Indenture aforesaid above specified, that is to say, the second day of *February*, in the thirtieth year of the Reign of the Lady the Queen that now is, at *London*, in the Parish and Ward aforesaid, from the Service of him the said *J.* without the licence of the same *J.* his Master, did depart, and him the said *J.* in his Art aforesaid, which the same *J.* did use, further to serve, did utterly refuse, contrary to the form and effect of the Indenture aforesaid: And so the said *E.* although often times required, the Covenant aforesaid, of that that the same *E.* with the said *J.* in the Art which the same *J.* then did use, and with him as a Servant, according to the Law and form of the Statute in such case set forth and provided, to abide and serve, from the Feast of the Purification of blessed *Mary*, then next following, after the date of the Indenture aforesaid, untill the end and term of one whole year, and so from year to year, untill the end and term of the aforesaid nine years, from thence next following, and fully to be complete and ended, hath not kept with the said *J.* but broken; and the same Covenant to keep with him hitherto he hath denied, and still doth deny; whereupon he saith, that he is the worse, and hath damage to the value of forty pounds, and thereof he bringeth Sute, &c.

Condition performed upon an Indenture for an Apprentice.

T. 13. of King James, 1011.

1566.

The Oath of an Apprentice pleaded.

PLead the Indenture, &c. as by the same Indenture is more fully appeareth. And the same *G.* saith, that after the making of the writing aforesaid, and before the end of the term of the aforesaid seven years then next following, that is to say, such a day and year at *N.* aforesaid, the said *G. G.* did put the aforesaid *T.* his Apprentice out of his Service, and did discharge the same *T.* of his said Service. And the same *G.* further saith, that the aforesaid *T.* from the said Feast of *St. John the Baptist*, in the ninth year above said, untill the aforesaid first day of *August*, in the eleventh year above said, did well and faithfully serve the said *G. G.* as an Apprentice, as well by Sea as by Land, his secrets did conceal, his precepts, lawfull and honest, did willingly every where

do and fulfill to his power, Fornication or Adultery he did not commit, nor any woman he did marry, at Cards, Dice, or any other unlawfull Games he did not play, Taverns, or Alehouses of Custome, he did not frequent, unlesse about his said Masters businessses there to be done, damage or losse to his said Master he did not do, nor consent to be done, but the same to his power did hinder, or by and by, give notice thereof to his Master, from the Service of his Master either by day or by night unlawfully he did not absent or detain himself, but in all things as a good, true, just, and faithfull Apprentice, according to the manner of an Apprentice of the City of London he did use and behave himself, according to the form and effect of the Indenture aforesaid: And this, &c. whereupon he prays Judgment whether the said Plaintiff, &c.

The Plaintiff ought not to be barred, because by protesting that the aforesaid T. hath not observed, performed, fulfilled, or kept any things in the Indenture aforesaid above specified, on his part to be observed, performed, fulfilled, or kept, according to the form and effect of the Indenture aforesaid, as the aforesaid G. above hath alledged. For plea the same G. saith, that the said T. after the aforesaid Feast of Saint John the Baptist, and before the end of the term of the aforesaid seven years then next following that is to say, the aforesaid first day of August, in the abovesaid eleventh year of the Reign of the said Lord the King that now is at N. aforesaid, from the Service of him the said G. against the will of the same G. did depart, contrary to the form and effect of the Indenture aforesaid. Without this, that the same G. after the making of the Writing aforesaid, and before the end of the aforesaid seven years, did put the aforesaid T. out of his Service, and did discharge the same T. of his said Service, as the aforesaid G. hath above alledged: And this he is ready to versifie, whereupon he prays Judgment and his debt aforesaid, together with his damages, by occasion of the detaining of that debt to him to be adjudged, &c.

Replication.

Traverseth the putting out of service.

And the aforesaid G. as before saith, that he after the making of the writing aforesaid, and before the end of the aforesaid seven years, did put the aforesaid T. out of his Service, and did discharge him the said T. of his said Service, as the same G. hath above alledged. And of this he putteth himself upon the Country, and the aforesaid G. likewise, therefore twelve, &c.

Rejoinder.

Lincoln. ss.

GC. late of G. in the County aforesaid, M. o. c. G. C. of G. aforesaid. M. was summoned to answer E. T. Gent, of a plea that he keep with him the Covenant between him the said E. and the aforesaid G. and one R. D. made, according to the force, form, and effect of certain Indentures thereof between them made, &c. And whereupon the same E. by W. T. his Attorney, saith, that whereas by his certain Indenture made at G. the twelfth day of D. in the tenth year of the Reign of the Lord the King that now is, between him the said E. by the name of E. T. &c. of the one part, and the aforesaid R. D. and G. by the names of R. D. &c. of the other part; the other part whereof, with the Seals of the said R. and S. signed, the same E. here in Court, sheweth forth, the date whereof is the same day and year; It is witnessed that the aforesaid E. T. had bargained and sold, and by the same Indenture did bargain and sell to the said R. D. and S. C. sixty Quarters of clean and merchantable Barley, accounting eight bushels to the heap to every quarter. All which said sixty quarters of Barley the said E. T. did covenant that he his Executors, Administrators, or Assignes, should deliver, or cause to be delivered to the said R. D. or G. C. at one of the Mansion houses of the said R. D. or G. C. situate in G. aforesaid, before the first day of A. then next following, the date of the same Indenture, for the bargain and sale of all which said sixty quarters of Barley, and the delivery

M 11: of King Charles, roll. 2224.

An Action of Covenant brought by the Plaintiff against one of the Covenantors for the non-payment of monies at two Feasts according to the Indenture, for Barley sold and delivered by him to them both.

livery of the same, in manner and form aforesaid, the aforesaid R. D. and G. C. for themselves, their Heirs, Executors, Administrators, and Assignes, did jointly and severally covenant, promise, and agree to pay, or cause to be paid to the said E. T. his Executors, or Assignes, the just and entire sum of seventy two pounds of lawfull money of England, in manner and form following, that is to say, twelve pounds of lawfull money of England, at, or before the Feast of the Circumcision of our Lord and blessed Saviour, commonly called *New-years day* then next following the date of the Indenture aforesaid, and thirty pounds of like lawfull money of England, upon the Feast of St. P. and J. commonly called *May day*, and other thirty pounds, upon the Feast of St. Martin the Bishop, commonly called *Martimas*, then next following, the date of the Indenture aforesaid, as by the same Indenture it more fully appeareth. And the same E. saith, that although he hath well and faithfully observed and fulfilled all and singular the Covenants and agreements in the Indenture aforesaid above specified, on his part to be observed and fulfilled, by promising also that the aforesaid R. and S. have not observed and kept, or either of them hath observed and kept any of the Covenants or agreements in the Indenture aforesaid above specified, on the part of the aforesaid R & S, and either of them to be observed and kept, according to the form & effect of the Indenture aforesaid. In fact the same E. saith, that the aforesaid R. & G. did not pay, or cause to be paid, or either of them did pay or cause to be paid to the same E. twelve pounds, at the Feasts of the Circumcision, &c. in the abovesaid tenth year of the Reign of the Lord the King that now is, and thirty pounds, upon the Feast &c. commonly called *May day*, in the eleventh year of the Reign of the said Lord the King that now is, which they or either of them ought to have paid, or caused to be paid to him as and upon the same Feasts, according to the form and effect of the Indenture aforesaid: And so the aforesaid G. although often required, the Covenant aforesaid, of that that the aforesaid R. and G. did jointly and severally covenant, promise, and agree to pay &c. (as above) hath not kept with the same E. but broken, and the same hitherto to keep with him he hath denied, and still doth deny, whereupon he saith, that he is the worse and hath damage to the value of one hundred marks, and thereof he bringeth Sute &c.

Breach assigned.

London ff.
Covenant for
the arrears of
Rent, and for
wast.

Iohn Taylor late of London, Shipwright, o.c. J. T. &c. was summoned to answer P. P. Esquire, of a plea that he keep with him the Covenant betwixt them made, according to the form and effect of certain Indentures thereof between them made &c. And whereupon the same P. by R. H. his Attorney saith, that whereas by a certain Indenture made the twentieth day of O. in the twelfth year of the Reign of the Lord the King that now is, at L. in the Parish of St. between him the said P. by the name of &c. of the one part, and the said J. T. by the name &c. of the other part: the other part whereof with the Seal of the said J. signed, the same P. here in Court sh. weth forth, the date whereof is the same day and year; It is witnessed, that the said P. for and in consideration of the sum of five and twenty pounds of lawfull money of England, to the same P. in hand paid, before the sealing of the Indenture aforesaid by the said J. whereof the aforesaid P. hath acknowledged the Receipt, and thereof clearly acquitted and discharged the aforesaid J. his Executors and Administrators by the same Indenture; and in consideration of the Rent and Covenants afterwards in the Indenture aforesaid reserved and mentioned, on the part and behalf of the said J. his Executors, Administrators, and Assignes, to be paid, done, and performed, had demised, granted, and to Farm letten, and by the Indenture aforesaid, did demise, grant, and to Farm let unto the said J. that Mansion house with the Garden thereto belonging, situate and being in the Parish of Deptford aforesaid, abutting upon a great Yard there commonly called

called the Merchants Yard towards the East, and adjoining to the great house of Mr. Brown towards the West: And also all that backside to the same Mansion house belonging, with one pair of Staires there into the River of Thames, on the North part of the same house, then being in the occupation of the said J. T. And also all those two Closes or parcels of Meadow lying and being in D. aforesaid, containing together in all, by estimation, three acres and an half, or thereabouts, then in the tenure or occupation of J. H. Butcher &c. And also all those Messuages, Houses, or Tenements, scituate, lying, and being within &c. together with all the Tenements, Storehouses, Sheds, Docks, Saw-Mill, Craines, Waies, Water-courses, Easements, Profits, Commodities, and Appurtenances whatsoever to the same demised Premises, or to any of them then belonging or appertaining (except and alwaies reserved out of the aforesaid Demise, and grant to the said P. P. his Executors, Administrators, and Assignes, all and singular the Trees standing, growing, and being, or which at any time from thence afterwards, during the term in the Indenture aforesaid mentioned to be granted, should stand, grow, or be, upon the same premises, or any parcell thereof; And also free liberty of acceffe, ingresse, egress, and regresse for him or them, or any of them, or his or their Servants, Workmen, or Assignes, with Horses, Carts, and Carriages, at all fit and convenient times during the term after in the same Indenture mentioned, to be granted, to enter and come in and upon the same premises, or any part thereof, to lop, top, fell, cut down, take, and carry away the aforesaid Trees, and every or any of them, at his and their liberties and pleasures.) To have and to hold the aforesaid mansion house, and the said two closes, or parcels of Meadow, and all and singular other the premises above demised, with their and every of their Appurtenances (except before excepted) to the aforesaid J. T. his Executors, Administrators, and Assignes, from the Feast of St. Michael the Arch-angell then last past, before the date of the Indenture aforesaid, unto the end and term of three and twenty years, from thence next following, fully to be compleat and ended, yeilding and paying therefore yearly during the aforesaid term to the said P. P. his Executors, Administrators, and Assignes, the yearly rent or sum of a hundred and ten pounds of lawful money of Engl. at the most usuall Feast daies, or terms of the year, that is to say, at the Feast daies of the birth of our Lord, the Annunciation of the blessed Virgin Mary, the Nativity of St. John the Baptist, and St. Michael the Arch-angell, by equall portions. And the aforesaid J. T. for himself, his Executors, Administrators, and Assignes, and for every of them did covenant and grant to and with the said P. his Executors, Administrators, and Assignes, and every of them by the Indenture aforesaid, that he the said J. T. his Executors, Administrators, or Assignes, should pay or cause to be paid to the said P. his Executors, Administrators, or Assignes, the aforesaid yearly rent of a hundred and ten pounds, at the aforesaid four usuall Feasts or terms of the year above mentioned by even and equal portions, and that yearly and every year, during all the aforesaid term of &c. above granted &c. And that he the said J. T. his Executors, Administrators, or Assignes, nor any of them, nor any other person or persons whatsoever, at any time or times from thence after, during the term aforesaid, should not alter, divide, amplifie, determine, transport, waft, or suffer to be waisted the aforesaid demised premises, or any part thereof, as by the same Indenture (amongst other things) it is more fully manifest and appeareth; By virtue of which Demise, the aforesaid J. T. into the Tenements aforesaid with the Appurtenances (except before excepted) did enter and was thereof possessed And the same P. in fact saith, that after the Demise aforesaid, in form aforesaid made, and before the day of the obtaining of the originall Writ of the same P. that is to say, at the Feast of St. M. the Arch-angell, in the one and twentieth year of the Reign of said Lord the King that now is, a hundred and ten pounds of the Rent aforesaid, for one year ended at the same Feast, were

2. Breach.

and still are in arrear and not paid, and that after the Demise aforesaid, in form aforesaid made, and before the day of the obtaining of the originall Writ of the same *P.* that is to say, the fifteenth day of *O.* in the abovesaid one and twentieth year of the Reign of the said Lord the King that now is, one Mill called a Saw Mill of the price of four hundred pounds, parcell of the premises aforesaid above demised, in default of the said *J. T.* was wholly thrown down, wasted and cast down to the ground, and the Timber and other Materially of the same Mill, afterwards, that is to say, the same fifteenth day of *O.* in the one and twentieth year abovesaid, by the aforesaid *J. T.* were taken and carried away, contrary to the form and effect of the Indenture aforesaid. And so the same *P.* saith, that the aforesaid *J. T.* the Covenant aforesaid, of that that he the said *J. T.* his Executors, Administrators, and Assignes, should pay or cause to be paid to the same *P. &c.* (as before.) And of that that the said *J. T. &c.* (as before in the last Covenant) although often required hath not kept with the said *J. P.* but broken, and the same to keep with him he hath hitherto wholly refused, and still doth refuse, whereupon he saith, that he is the worse, and hath damage to the value of six hundred pounds, and thereof he bringeth Sute, &c.

1.

2.

Confession of
the Demise.Entry and pos-
session.And avoidance
by the granting
over of his
term to another.

Notice thereof.

Acceptance of
the rent of the
Grantee by the
Plaintiff.

AND the aforesaid *J. T.* by *G. A.* his Attorney, commeth and defendeth the force and injury, when &c. and saies, that the said *P.* ought not to have his Action aforesaid against him, because he saith, that well and true it is that the said *P.* did demise to the same *J.* the Tenements aforesaid with the Appurtenances, to have and to hold to the same *J.* from the aforesaid Feast of St. Michael the Arch-angell last past, before the date of the Indenture aforesaid, untill the end and term of three and twenty years from thence next following, fully to be compleat and ended. And that by virtue of the Demise aforesaid, the same *J.* into the Tenements aforesaid with the Appurtenances did enter, and was thereof possessed; as the aforesaid *P.* by his Declaration aforesaid above supposeth. But the same *J.* further saith, that the same *J.* of the Tenements aforesaid with the Appurtenances, by virtue of the Demise aforesaid, to him in form aforesaid made, being possessed, he the said *J.* afterwards and before the aforesaid Feast of St. Michael the Arch-angell, in the abovesaid one and twentieth year of the Reign of the said Lord the King that now is, in the Declaration aforesaid above specified, that is to say, the fifth day of April, in the fifteenth year, &c. at *D.* aforesaid, in the said County of Kent, had granted to one *W. C.* Esquire, all his Estate, Right, Title, interest and term of years which he then had, of and in the Tenements aforesaid with the Appurtenances, then to come. By virtue of which grant the aforesaid *W.* into the Tenements aforesaid with the Appurtenances did enter, and was thereof, for the residue of the aforesaid term of three and twenty years then to come, possessed. And the same *J.* further saith, that he after the grant aforesaid by the same *J.* to the aforesaid *W.* in form aforesaid made, that is to say, the tenth day of June, in the fifteenth year abovesaid, at *D.* aforesaid, did give notice thereof to the said *P.* and that the said *P.* afterwards, that is to say, the sixteenth day of July, in the fifteenth year abovesaid, at *D.* aforesaid, seven and twenty pounds and ten shillings of the Rent aforesaid, in form aforesaid reserved, at the Feast of the N. of St. the Baptist, in the fifteenth year abovesaid, according to the reservation aforesaid payable, of the aforesaid *W. C.* did receive and accept. And this he is ready to verifie, whereupon he prayes Judgment whether the aforesaid *P.* ought to have his Action aforesaid against him, &c.

The Plaintiff demurs severally to the Plea of the Defendant pleaded in Bar, Pasch. 22, of King Charles, Rol. 240.

Elsewhere as it appeareth in the Term of St. Hillary last past, in the Roll 405. it is contained thus Midd. ff. The Sheriff was commanded, whereas W F of the Parish of St. Mildred in the Poultry London, F and Ja. F of the same F, late in the Court of the Lord the King (that is to say) in the Term of St. Hillary, in the twentieth year of his reign, before the Justices of the said Lord the King of the Bench here (that is to say) at Westminster in the County of Midd. did acknowledge, and either of them did acknowledge themselves to owe to Ja. D and J his wife the sum of one hundred and twenty pounds of lawful money of England, which said sum of one hundred and twenty pounds, the same W and J for themselves, their Heirs, Executors and Administrators did will and grant, and either of them for himself his Heirs, Executors, and Administrators, did will and grant of their and either of their Lands and Chattels to be made, and to the use and behoof of them the said J. a and J to be levied: Upon condition, that if it should happen Judgment to be given for the said Ja. and J against one D H late of L H. o. c. D H & c. in the same Court of the said Lord the King, in a certain Plea, that he keep with the said Ja. and J the Covenant betwixt them made, according to the force, form, and effect of certain Indentures thereof between them made, against the same D in the said Court prosecuted. Then the same D all the damages, which the aforesaid Ja. and J had sustained, as well by occasion of the breach of the Covenant aforesaid, as for their expences and costs by them about their suit in that behalf laid out in the same Court of the said Lord the King, to be recovered or adjudged, to the same Ja. & J should satisfy, or his body in execution of such Judgment in the same Court of the said Lord the King here he should render, as by the record thereof in the same Court of the said Lord the King here residing it manifestly appeareth.

And although the aforesaid Ja. and J in the Term of the holy Trinity, in the one and twentieth year of the reign of the said Lord the King that now is, before F C Knight, E R Knight, and R F Knight, then the Justices of the said Lord the King of the Bench here (that is to say) at Westminster aforesaid, by the consideration of the same Court have recovered against the aforesaid D thirty pounds, which to them were adjudged for their damages and costs, which they had sustained by occasion of the breach of the Covenant aforesaid, whereof he was convicted, as by the record and process thereof in the same Court of the said Lord the King here (that is to say) at Westminster aforesaid residing, it manifestly appeareth.

And albeit the said J after the judgment aforesaid given, died; nevertheless the aforesaid D the said thirty pounds to the same Ja. and J, in the life time of her the said J adjudged for their damages and costs aforesaid, to the said Ja. & J, in the life time of her the said J, whom the said Ja. did overlive, or to the said Ja. after the death of her the said J, hath not satisfied, nor his body in execution of such judgment in the same Court of the said Lord the King here be hath rendered, according to the form of the Recognisance aforesaid, as by the Information of the aforesaid Ja. the King had understood. And because, &c. that by honest, &c. he should make known to the said W F and J, that they should be here at this day (that is to say) in eight dayes of the Purification of the blessed Mary, to shew if any thing, &c. namely, the aforesaid W, why the aforesaid one hundred and twenty pounds by him in form aforesaid acknowledged of his Lands and Chattels, &c. should not be made, and to the said J rendered, according to the form of the Recognisance aforesaid, if, &c. And now here at this day come as well the aforesaid J by R P his Attorney, as the aforesaid W and J by W K their Attorney; and the Sheriff now certifies, that they have nothing, &c. nor are to be found, &c. And hereupon the said J prays execution against the aforesaid W of the aforesaid one hundred and twenty pounds by the same W in form aforesaid acknowledged to him to be adjudged, &c. And the aforesaid W and J pray licence to speak together thereof

Easter 22. of King Charles, Roll 487.

The entry of a *Su fac* against a Baile in Covenant after damages recovered therein against the principal.

Note.

Judgment against the principal for damages.

The death of one of the Plaintiffs.

Survivors.

The appearances of the parties: *Nichil retorne;*

thereof here until Easter day in fifteen dayes : And they have it, &c. The same day is given to the aforesaid Ja. here, &c. At which day came here as well the aforesaid Ja. as the said W and J by their Attorneys aforesaid. And here upon the same Ja. as before comes execution against the aforesaid W of the aforesaid one hundred and twenty pounds by him in form aforesaid acknowledged : And against the aforesaid J of the aforesaid one hundred and twenty pounds by him in form aforesaid acknowledged, of their and either of their Lands and Chattels to be levied, according to the form of the Recognizance aforesaid to him to be adjudged, &c.

Bar, no such
Record of the
Recognizance
by one of the
Defendants.

The like by
the other.

AND the aforesaid W saith, that the aforesaid Ja. ought not to have execution against him, of the aforesaid one hundred and twenty pounds, by him as aforesaid in form aforesaid, acknowledged, by virtue of the recognizance aforesaid, because he saith, that there is not any such Record of the Recognizance aforesaid, between him the said W and the said Ja. and J in the life time of the same J in the aforesaid Court of the said Lord the King that now is here remaining, As the said Ja. by his Wit aforesaid above suppoeth : And this he is ready to verifie, whereupon he prays Judgment of the said Ja. ought not to have execution against him of the aforesaid one hundred and twenty pounds, &c. And the aforesaid Jo. saith, that the aforesaid Ja. ought not to have execution against him of the aforesaid one hundred and twenty pounds by him as aforesaid, in form aforesaid acknowledged, by virtue of the Recognizance aforesaid, because he saith, that there is not any such Record of the Recognizance aforesaid, between him the said Jo. and the said Ja. and J in the life time of the same J, in the aforesaid Court of the said Lord the King that now is here remaining, as the aforesaid Ja. by his Wit aforesaid above suppoeth : And this he is ready to verifie, whereupon he prays Judgment, if the aforesaid Ja. ought to have execution against him of the the aforesaid one hundred and twenty pounds, &c.

Replication,
that there is
such a Record
to one of the
Defendants.

The like to
the other.

AND the aforesaid Ja. as to the aforesaid Plea of the said W, as to the aforesaid one hundred and twenty pounds, which he, by virtue of the Recognizance aforesaid, by the said W in form aforesaid acknowledged, above demandeth, against him saith, that by any things in the same Plea before alleadged, ought not to be barred from having his execution aforesaid, against the aforesaid W thereof, because he saith, that there is such a Record of the Recognizance aforesaid, between the same J and the said Ja. in the life time of her the said J, and the aforesaid W in the said Court of the said Lord the King of the Bench here (that is to say) at Westminster aforesaid remaining, as he by his Wit aforesaid above suppoeth : And this he is ready to verifie by the same Record as it appeareth in the aforesaid Terme of Saint Hillary, in the twentyeth yeare abovesaid, in the sixty fifth Roll. And as to the aforesaid Plea of the said Ja. as to the aforesaid one hundred and twenty pounds, which the same J by virtue of the Recognizance aforesaid by the said Jo. in form aforesaid acknowledged, above demandeth ; against him, the same Jo. saith, that he by any things in the same Plea before alleadged, ought not to be barred from having his said execution against the said Ja. thereof, because he saith, that there is such a Record of the Recognizance aforesaid, between him the said Jo. and the aforesaid Ja. and J in the life time of the same J, in the aforesaid Court of the said Lord the King of the Bench here (that is to say) at W aforesaid remaining, as he the said Ja. by his Wit aforesaid above suppoeth, And this he is ready to verifie by the same Record, as it appeareth in the aforesaid Terme of Saint Hil. in the twentieth year abovesaid in the said sixty fifth Roll : And the same Ja. prays that the same Terme and Roll, by the Justices here may be viewed and inspected, and because the same Terme & Roll now here are not had, it is said by the Court here, to the said Ja. that the same Terme

Note.

Term and Roll being searched, the same *J. a.* have that Record here in the morning of the holy Trinity. The same day is given to the parties aforesaid here, *Day given to bring in the record.*

R S. late of C. in the County aforesaid, T. o. c. R. S. of, &c. was summoned to answer T. C. of a plea that he keep with him the Covenant betwixt them made, according to the force, form, and effect of certain Indentures thereof between them made &c. And whereupon the same T. by A. B. his Attorney said, that whereas by a certain Indenture made at C. aforesaid, the first day of *June*, in the fifth year of the Reign of the Lord the King that now is, between him the said T. by the name of T. C. &c. of the one part, and the said R. by the name of R. S. &c. of the other part; the other part whereof with the Seal of the said R. signed, the same T. here in Court sheweth forth, the date whereof is the same day and year; It is witnessed, that the said T. C. for divers good reasons and Considerations him thereunto moving, had demised, &c. (as in the Indenture.) And the aforesaid R. for himself, his Heirs, Executors, Administrators and Assignes, and every of them had covenanted and granted to, and with the same T. his Executors, Administrators, and Assignes, by the same Indenture, that he the said R. his Executors and Assignes, and every of them from time to time; and at all times during the aforesaid term of eleven years, should sustain, maintain and keep the said demised Kitchen, Garden, and Premises, with the Appurtenances, with all needfull and necessary reparations and Fences whatsoever; And in the end of the said terme, the same and every part and parcell thereof, should peaceably and quietly leave and surrender to the said T. his Executors and Assignes; as by the same Indenture it more fully appeareth: And the same T. by protesting that the aforesaid R. hath not observed, performed, fulfilled or kept, any of the Covenants or Grants in the Indenture aforesaid specified, on the part of the same R. to be observed, performed, fulfilled and kept according to the form and effect of the Indenture, aforesaid. In fact the same T. saith that the said term of eleven years did end the five and twentieth day of *July* in the sixteenth year of the reign of the said Lord the King that now is: And that the aforesaid R. did not leave and surrender to the same T. and his Assignes the demised premises aforesaid with the appurtenances, but held himself within, and still holds himself within the same: And so the said T. saith, that the aforesaid R. although often times required his, Covenant aforesaid, of that, that the said R. for himself, his Heirs, Executors, Administrators, and Assignes and every of them had covenanted and granted to, and with the same T. his Executors, Administrators, and Assignes, by the same Indenture, that he the said R. his Executors and Assignes, and every of them, from time to time, and at all times, during the aforesaid term of eleven years, should sustain maintain, and keep the said demised Kitchen, Garden, and premises, with the appurtenances, with all needfull and necessary Reparations and Fences whatsoever: and in the end of the said term. the same and every part and parcell thereof should peaceably and quietly leave and surrender to the said T. his Executors and Assignes, according to the form and effect of the Indenture aforesaid hath not kept with the same T. but broken, and the same hitherto to keep with him he hath denied, and still doth deny. whereupon he saith, that he is the worse, and hath damage to the value of a hundred pounds, and thereof he bringeth Sute, &c.

Covenant wherein the breach is assigned for not leaving and surrendering of the demised Premises to the Plaintiff in the end of the Term.

Breach assigned.

Note.

D S. late of L. in the County aforesaid, Gent. &c. was summoned to answer J. S. Gent. of a plea that he keep with him the Covenant betwixt them made, according to the force, form, and effect of a certain Bill thereof between them made, bearing date at W. the twelfth day of D. in the eighteenth year

T. 14. of King Charles, roll. 169.

Covenant upon
a will, wherein
the Defendant
did promise to
render a true
and just ac-
count and sa-
tisfaction for
six peeces of
broad-cloth,
with their due
profits in a way
of merchandi-
zing, within
thirty dayes af-
ter the safe ar-
rivall and re-
turn of a Ship,
&c.

Averment of
performances
on the Plai-
niffs part.
Protesting the
non perfor-
mance on the
Defendants
part.
Breach assigned
for not ren-
ding of the ac-
count.

Note.

year of the Reign of the Lord the King that now is: And whereupon the same
J. S. by J. D. his Attorney saith, that whereas the aforesaid J. Stoford by the
name of J. S. of &c. at B. by his certain Bill which the same J. Serle, with
the Seale of the aforesaid J. Stoford signed here in Court sheweth
forth, the date whereof is the same day and year, did witnesse that he
the said J. Stoford of Lympton in the County of Devon Master and Partner
of the good Ship called the *Diligence*, of *Topsham* then bound to Sea,
by the permission of God by way of Merchandizing, had received and had of
the aforesaid J. Serle, by the name of J. S. &c. six peeces of broad-cloth, con-
taining in the whole one hundred and four and thirty yards, to the value of
seventy shillings and two pence for every yard &c. And the aforesaid J. Sto-
ford for himself, his Executors, and Administrators, and Assignes, by the Bill
aforesaid, did covenant and promise to, and with the said J. S. his Heirs, Ex-
ecutors, and Assignes, to render a due and true account and satisfaction thereof
with their due profits in a way of Merchandizing, within thirty dayes after
the safe arrivall and return of the said Ship, into any of his Majesties Harbours,
Ports, or Creeks within this Realm of *England*, or *France*, without covin or
fraud; as by the Bill aforesaid it more fully appeareth. And although the
same J. Serle from the time of the making of the Bill aforesaid, unto the day of
the obtaining of the Originall Writ of the same J. Serle, hath well observed,
performed, kept, and fulfilled all and singular the things in the Bill aforesaid
above specified, on the part of him the said J. Serle to be observed, performed,
kept, or fulfilled, according to the form and effect of the Bill aforesaid: By
protesting also, that the aforesaid J. Stoford from the time of the making of the
Bill aforesaid hitherto hath not observed, performed, kept, or fulfilled, any thing
in the Bill aforesaid specified on his part to be observed, performed, kept, or ful-
filled. In fact the same J. Serle saith, that the aforesaid J. Stoford after the making
of the Bill aforesaid, and before the day of the purchase of the Originall Writ
of him the said J. Serle, that is to say, the twentieth day of *March*, in the eigh-
teenth year abovesaid, out of the Port of *T* in the *C. of D.* with the Ship a-
foresaid, did set sail to Sea in a Merchants Voyage, and after the said Voyage
ended, that is to say, the last day of *F.* in the nineteenth year of the Reign of
the said Lord the King that now is, into the Haven of *Dartmouth*, in the said *C.*
of *D.* with the Ship aforesaid did return: And that the aforesaid J. Stoford at any
time afterwards hitherto hath not given or rendred a due and true account
and satisfaction for the aforesaid six peeces of broad-cloth, or any parcell there-
of, with their due profits in a way of Merchandizing, without fraud and covin:
And so the same J. Stoford, although often times required, the Covenant aforesaid,
of that that the aforesaid J. Stof. himself &c. (and so recite all the Covenant)
hath not kept with the said J. Serle, but broken, and the same hitherto to keep
with him he hath denied, and still doth deny, whereupon he saith, that he is
the worse, and hath damage to the value of ninety nine pounds, and thereof he
bringeth Sute &c.

Saith nothing.

A writ to en-
quire of dama-
ges awarded.

And the aforesaid J. Stoford by J. R. his Attorney, comes and defends the
force and injury, when &c. And saith nothing in Bar of the aforesaid Ac-
tion of the said J. Serle, whereby the same J. S. remaineth against the said J.
Stoford thereof without defence; for which it is considered that the aforesaid
J. Serle ought to recover his damages by occasion of the Premises, against
the aforesaid J. Stoford. But because it is not known what damages the said
J. Serle hath sustained by occasion of the Premises, it is commanded the
Sheriff that by the Oath of honest and lawfull men of the County aforesaid, he
diligently enquire what damages the aforesaid J. Serle hath sustained, as well
by

by occasion of the Premises, as for his expences and costs by him about his Sute in this behalf laid out: and the inquisition which &c. let the Sheriff make to appear here in the morrow of St. Martin, under the Seal &c. and the Seals &c. at which day here came the said *J. Serle* by his Attorney aforesaid; and the Sheriff namely *Edward Parker* Esquire, now certified here a certain inquisition before him at the Goal-garden near the Castle of E. in the County aforesaid, the sixth day of O. last past, by the Oath of twelve &c. taken, by which it appeareth that the aforesaid *J. Serle* hath sustained damages by occasion of the breach of the Covenant aforesaid, above his expences and costs by him about his Sute in this behalf laid out, to sixty six pounds: and for those expences and costs to forty shillings: And because the Justices here will advise themselves of and upon the premises before they give Judgment thereupon, day is given to the said *J. Serle* here untill in eight daies of St. Hilary, of the hearing of their Judgment thereof, for that the same Justices here thereof not as yet &c. At which day here came the aforesaid *J. Serle* by his Attorney aforesaid, and hereupon the premises being seen, and by the Justices here more fully understood, it is considered that the aforesaid *J. Serle* recover against the aforesaid *J. Stoford* his damages aforesaid to sixty eight pounds, by the said inquisition in form aforesaid found, and also six pounds to the same *J. Serle* at his request, for his expences and costs aforesaid, by the Court here of increase adjudged, which said damages in the whole do amount to seventy four pounds: And the aforesaid *J. Stoford* in mercy &c.

Returned.

And executed.

The Court will advise.

Judgment.

Mercy.

TRin. 13. *J. ac. rot. 3492. Staff. ff. H. B. late of &c. otherwise called &c. was summoned to answer I. L. the elder, and I. L. the younger, of a Plea that he hold to them the Covenant between the same H. and A. his Wife, and the said J. and J. and one Isabell L. deceased, late Wife of the said J. L. the elder, according to the force, form, and effect of certain Indentures thereof made between the said J. J. and J. and the said H. and A. &c. And whereupon the said J. and J. by W. F. their Attorney, say, that whereas by a certain Indenture made at the Town of S. the five and twentieth day of May, in the seven and thirtieth year of the Reign of the Lady Elizabeth, late Queen of England, between the said H. B. and A. his wife, by the names of H. B. of &c. and A. his wife. Daughter and Heir of R. M. late of &c. now deceased, of the one part, and the said J. L. the elder, Isabell in her life time and J. L. the younger by the names of J. L. of &c. Isab. his wife, and J. L. the younger, one of the Sors of the said J. L. the elder, of the other part, the other part whereof signed with the Seals of the said H. and A. the said J. and J. bring here into Court, the date whereof is the same day and year, it is witnessed, that the said H. and A. for and in consideration of the sum of one hundred pounds of lawfull money of England, well and truly paid unto the said H. and A. their Executors and Assignes, by the said J. L. the elder, Isabell, and J. L. the younger, at certain daies and times between them thereupon agreed, had demised, granted, delivered, set, and to Farm-let, and by the same Indenture did demise, grant, deliver, set, and to Farme let unto the said J. J. and J. and their Assignes, all that Messuage, or Tenement with the Appurtenances, situate, lying, or being in little C. aforesaid, and also all and singular the Houses, Buildings, Gardens, Orchards, Curtillages, Meadows, Leasows, Pastures, arable Lands, Feedings, Commons, Commodities, Profits, Liberties, Lands, Tenements, and Easements to the same belonging, lying, or any manner appertaining, or thereof usually demised, letten, or occupied in little C. aforesaid, or elsewhere, within the said County of S. then or late in the tenure or occupation of the said J. L. or of his Assignes, to have and to hold the said Messuage, Tenement,*

Covenant against one for not saving harmles.

Consideration.

B b b

Houses,

Lease for a hundred years if the lessee so long live.

Assent.

Feoffment to use.

Limitation of uses.

27. H. 8. of uses.

Houses, Buildings, Gardens, Orchards, Curtillages, Meadows, Leasures, Pastures, arable Lands, Feedings, Commons, Commodities, and all other the Premises, with all and singular their Appurtenances, unto the said *J. L. J.* and *J.* and their Assignes, from the day of the date of the said Indenture, for and during the term of a hundred years, if the said *J. L. J.* and *J.* and the over-liver of them should happen so long to live. And the said *J.* and *J.* further say, that the said *H. B.* and *A.* his wife, by the same Indenture did covenant and grant for themselves and either of them, their Heires, Executors, and Assignes, to and with the same *J. L. J.* and *J.* and every of them, their Executors and Assignes, that the said *J. J.* and *J.* and the longer liver of them, and their Assignes, should have hold, and enjoy the demised Premises, and every part and parcell thereof, for and during the whole time aforesaid, under the Rents, Payments, Reservations, Covenants, Conditions, Services, Dues, Provisions, and Customs in the said Indenture above mentioned or expressed, clearly and absolutely discharged, acquitted, and exempted, or otherwise sufficiently, upon reasonable request made to the said *H.* and *A.* their Heirs or Assignes, saved and kept indemnified by the said *H.* and *A.* their Heires or Assignes, from all and all manner of former Bargains, Sales, Grants, Demises, Rents, Charges, Incumbrances, and Demands whatsoever, had, made done, acknowledged, or promised by the said *H.* or *A.* or either of them, or by one *R. M.* late of *Essex*, Father of the said *R. M.* or by the said *Ro. M.* or by the said *Rich. M.* Brother of the said *Ro. M.* or by either or any of them, in any manner of way (the Rents, Reservations, Covenants, Conditions, Services, Dues, Provisions, and Customs, in the same Indenture mentioned or expressed only excepted and fore-prised) as by the same Indenture amongst other things more plainly appeareth. And the said *J.* and *J.* in fact say, that long before the making of the said Indenture brought hither into Court, the said *R. M.* the elder of *H.* aforesaid Esquire, was seised of the Tenements aforesaid with the Appurtenances, in the Indenture aforesaid above specified, amongst other things in his Demesne as of Fee; and so thereof being seised, the said *R. M.* the elder, before the making of the said Indenture, that is to say, the eighth day of *Jan.* in the tenth year of the Reign of the said late Queen *Elizabeth*, of the Tenements aforesaid with the Appurtenances, amongst other things did enfeof *J. G. Elquire*, *R. E. Elquire*, *T. M.* and *M. M. Elquires*, *R. F.* and *J. F. Gent.* and *J. L. Gent.* to have and to hold unto the same *J. G. R. E. &c.* their Heires and Assignes for ever, to the use of the said *R. M.* the elder, for term of his natural life, without impeachment of any waste. And after the decease of the said *R. M.* the elder, then to the use of the said *R. M.* the younger, one of the youngest sons of the said *R. M.* the elder, for term of his life: And after the decease of the said *R. M.* the younger, then to the use of the said *R. M.* and the Heirs Males of the body of the said *R. M.* lawfully begotten, and for want of such issue, then to the use of the said *R. M.* the younger, and the Heirs Males of the body of the said *R. M.* the younger, lawfully begotten; and for want of such issue, then to the use of the rest of the heirs of the said *R. M.* the elder for ever. By vertue of which said Feoffment, and by force of a certain Act in the Parliament of the Lord *H.* late King of *England*, the eighth, at *Westm.* in the County of *Midd.* the fourth day of *Feb.* in the 27. year of his Reign, of transferring uses into possession, held, set forth, and provided, the said *R. M.* the elder, was seised of the Tenements aforesaid with the Appurtenances, for term of his life, the remainder thereof after the decease of the said *R. M.* the younger, to the said *Ro. M.* and the Heirs Males of his body lawfully begotten, the remainder thereof for want of such issue, to the right heirs of the said *R. M.* the elder for ever. And the said *R. M.* the elder so thereof being seised, the remainder thereof further as above is limited, in form aforesaid belonging. The said

R. M.

R. M. the elder, afterwards and before the making of the said Indenture, brought here into Court at the Town of *S.* aforesaid, died, of such his Estate thereof seised, after whose death the said *R. M.* the younger, into the Tenements aforesaid with the Appurtenances, as into his remainder thereof, did enter, and was thereof seised in his Demesne as of Freehold, for term of his life, the remainder thereof after the decease of the said *R. M.* the younger, to the said *Ro. M.* and the Heirs Males of his body lawfully begotten, the remainder thereof further as above is limited, in form aforesaid belonging. And the said *R. M.* the younger so thereof being seised, the remainder thereof as above is limited, in form aforesaid belonging, the said *R. M.* the younger had issue of his body lawfully begotten, one *T. M.* And afterwards the said *R. M.* the younger, at the Town of *S.* aforesaid died of such his Estate thereof seised, after whose death the said *Ro. M.* into the Tenements aforesaid with the Appurtenances, as in his remainder aforesaid did enter, and was thereof seised in his Demesne as of Fee tail, that is to say, to him and his Heirs Males of his body lawfully begotten, the remainder thereof for want of such issue to the said *T. M.* and *H.* and the heires males of the said *T. M.* lawfully begotten, the remainder thereof further as above in form aforesaid belonging. And the said *Ro. M.* so thereof being seised, the remainder thereof as above is limited in form aforesaid, belonging, the said *Ro. M.* afterwards and before the making of the said Indenture, brought here into Court, had issue of his body lawfully begotten, the said *A. M.* now the wife of the said *H. B.* And afterwards the said *M.* at the Town of *S.* aforesaid died without any heire male of his body lawfully begotten, after whose death, the said *H.* and *A.* his wife, into the Tenements aforesaid with the Appurtenances, did intrude and were thereof seised in their Demesne as of Fee by intrusion; And so thereof by that intrusion being seised, the said *H.* and *A.* by the Indenture aforesaid, brought here into Court, demised to *I. L.* the elder, and *I.* his late wife, now deceased, and *I. L.* the younger, The Tenements aforesaid with the Appurtenances, by the Indenture aforesaid, above demised, in form aforesaid, To have and occupy to the same *I. L.* the elder, *I.* and *I. L.* the younger, and their Assignes, from the day of the date of the said Indenture, for and during the term of the said one hundred yeares, if the said *I. L.* the elder, and *J. L.* the younger, or any of them, should happen so long to live: By virtue of which Demise, the said *J. L.* the elder, and *J. L.* the younger, into the Tenements aforesaid with the Appurtenances above demised, did enter, and were thereof possessed: And so thereof being possessed, the said *J.* died, And the said *T. M.* afterwards and before the day of the purchasing of the originall Writ of the said *J. L.* the elder, and *J. L.* the younger, that is to say, the first day of *October*, in the tenth yeare of the reign of the said King that now is, at the Town of *S.* aforesaid, into the Tenements aforesaid with the Appurtenances above demised, upon the possession of the said *J. L.* the elder, and *J. L.* the younger, thereof did enter, and them the said *J.* and *J.* from their possession thereof did expell and remove, and was thereof seised in his Demesne as of Fee-tail, that is to say, to him, and the heires males of his body lawfully begotten, as in his remainder aforesaid, by reason of which the said *J. L.* the elder, and *J. L.* the younger, could not hold and enjoy the Tenements aforesaid with the Appurtenances, according to the form and effect of the said Indenture. And the said *J. L.* and *J. L.* further say in fact, that they and the said *J.* in her life time, afterwards and before the day of the purchasing of the said originall Writ at the Town of *S.* aforesaid, requested, the said

H. and A. to discharge and save harmlesse the said J. L. the elder, J. L. the younger, against the said T. M. of, for, and concerning his remainder aforesaid, by the said R. M. the elder, so as aforesaid made, which to do the said H. and A. then and there altogether refused, and as yet do refuse: And so the said H. B. although often required the Covenant aforesaid, for that that the said J. L. the elder, and J. L. the younger, and the over-liver of either of them, and their Assignes, and every of them should have, hold, and enjoy the Tenements aforesaid with the Appurtenances above demised, and every part and parcell thereof, for and during the said term of the aforesaid one hundred years, under the Rents, Payments, Reservations, Covenants, Conditions, Services, Dues, Provisions, and Customes in the said Indenture mentioned or expressed, clearly and absolutely discharged, acquitted, and freed, or otherwise sufficiently, upon reasonable request to the said H. and A. their Heires or Assignes, to be made, saved, and kept harmlesse by the said H. and A. their Heires or Assignes, from all and all manner of former Bargains, Sales, Grants, Demises, Rents, Charges, Incumbrances or Demands whatsoever had, made, done, acknowledged, or suffered by the said R. M. the elder, (the Rents, Payments, Reservations, Covenants, Conditions, Services, Dues, Provisions, and Customes in the same Indenture mentioned or expressed, onely excepted and foreprized) to the same J. L. the elder, and J. L. the younger, hath not kept but broken, and the same to them to keep hath denied, and as yet doth deny, whereupon &c.

And the said H. B. by G. H. &c. when &c. And saving to himself all and all manner of advantages, exceptions, and allegations as well to the Writ as to the Declaration aforesaid, pray leave to imparl &c.

Covenant against an Apprentice.

T. 7. Jac. rot.

503. Br. London, ff. B. against V. Covenant brought by an Apprentice against his Master & breach that he did not find his Apprentice meat and drink, &c. Bar that he did finde sufficient meat, &c. to his Apprentice, untill such time that he departed from his Service.

TRin. 13. Jac. Rot. 723. Brownlow. L. ff. W. B. late of &c. Dether wife called W. B. the Son of I. B. of, &c. was summoned to answer R. D. of a Plea that he keep with him the covenant made between them, according to the forme and effect of certaine Indentures thereof made between them, &c. And whereupon the said R. by E. W. his Attorny saith that whereas by a certaine Indenture made at L. in the Parish of Saint M. B. in the Ward of C. the foure and twentieth day of August, in the tenth year of the reign of the Lord the King that now is, between the said W. by the name of W. B. Son of I. B. of F. in the County of S. of the one part, and him the said R. by the name of R. D. Citizen, and Girdler of L. of the other part, the other part whereof signed with the seale of the said W. bringeth here into Court, the date whereof is the same day and year, it is witnessed, that the said W. had put himselfe an Apprentice, unto the same R. then Citizen, and Girdler of London, to learne his art to which he then used, and with him after the manner of an Apprentice, to live and

H. 14. Jac. rot. 63. Brownlow, M. against D. Covenants brought by an Apprentice against his Master. Breach that he did not instruct and inform him in his Art.

serve from the day of the date of the said Indenture, untill the end and term of seven years from thence next ensuing, and fully to be compleat and ended, during which said terme the said W should well and faithfully serve the same R, his Master, his secrets should hide, and, and his lawfull and honest commands willingly every where should doe, damage to the same R his Master, he should not doe, nor suffer to be done of others, but that he should hinder according to his ability, or presently should premonish his said Master thereof, the goods of his said Master. inordinately he should not waste, neither should lend them to any one unlawfully, he should not commit fornication, nor contract matrimony, or dice, or any other unlawfull games he should not play, he should not frequent Taverns, he should not depart nor absent himself from the service of his said Master, without the licence of the same Master by the said whole terme, but in all things as a good and faithfull Apprentice towards his said Master, kindly should behave himself: And that the said R the said W his Apprentice in the Art wherein he then used, in the best way he ought or should know, should teach and inform, or cause to be informed in due manner, chastising and finding unto the same his Apprentice meat, drink, washing, cloathing, linnen, woller, shoes, and lodging, and all other things to him necessary, according to the use and custome of the City of L, and other covenants all and singular, as well on the part of the said Master, as on the part of the said Apprentice to be kept and fulfilled in all things in forme as above, each of them had bound himselfe to the other firmly, by the same Indenture as by that Indenture more plainly appeareth: And the said R saith, that although he well and truly hath fulfilled and performed all and singular in the said Indenture above specified, on the behalfe of him the said R, to be fulfilled and performed, according to the forme and effect of that Indenture; In fact the said R saith, that although he well and faithfully hath fulfilled and performed, all and singular the Covenants and Grants in the Indenture aforesaid above specified, on his part to be performed and fulfilled, according to the forme and effect of that Indenture, protesting also, that the said W hath not fulfilled or performed any the Covenants or Agreements in the Indenture aforesaid, above specified, on his part to be fulfilled and performed, according to the forme and effect of the said Indenture. In fact the said R saith, that the said W after the making of the said Indenture, and within the said terme of seven yeares, that is to say, between the said four and twentieth day of August, in the tenth year abovesaid, and the twenty sixth day of March, in the thirteenth year of the reign of the Lord the King that now is at L, in the Parish and Ward aforesaid, had and received of one E B, to the proper use of him the said R fifteen pounds, and of one E W five pounds, and of one T H fifty three shillings and four pence, by the hands of one I S sixty six shillings eight pence, of one H A six pounds thirteen shillings and four pence, of one A W Widow thirty five shillings, of one H A 14 s. of one H I 14 s. 8 d. of one W F fifty three shillings four pence, of one E N fifty three shillings four pence, and of one S fifteen shillings eight pence; of which said severall sums of money as aforesaid received, in the whole amounting unto the said forty two pounds and eleven shillings eight pence, the said W after the receipt of the same hitherto hath not rendred to the same R any account thereof, but those monies to his proper use hath disposed and converted against the forme and effect of the same Indenture, and the said R further saith, that the said W during the time wherein the said W was the Apprentice of the said R, that is to say, in such a day, and in the tenth yeare of the reign of the Lord the King that now is at L, in the Parish and Ward aforesaid, did commit fornication with one A L, and got her with-child, against the forme and effect of the same Indenture, and the said R further saith, that the said W during the

T. 19. Jac. rot
2862. Brown
low, H. against
B. Covenant
upon Indenture
of Apprentiship
by an Apprentice
against his
Master.
Bar, that the
Apprentice
did depart
his service be-
fore his terme
ended.

the said time wherein the said W was Apprentice of the said R, that is to say, such a day and year at E aforesaid, without the licence and will of the said R did often frequent Taverns tarrying there a long time, that is to say, Taverns commonly called the Pole-head, and Kings-head, within the Parish of Saint G, in the Ward of C B, against the form and effect of the said Indenture, so the said R saith, that the said W the Covenant aforesaid, for that that the said W should not doe damage to the same R his Master, the goods of his said Master inordinately, he should not waste, fornication, he should not commit, and Taverns he should not frequent, hath not kept but broken, but the same to him to keep hitherto hath denyed, and as yet doth deny, whereupon he saith, that he is the worse, and hath damage to the value of one hundred pounds: And thereof he bringeth sute, &c.

Covenant brought against Lessee by the Grandchild, for suffering the Houses to goe to decay and ruine.

T19. Jac. Rot. 3292. Brownlow. S. ff. NR late of, &c. Dheritwise called &c. was summoned to answer NH Esquire, Son and heir of HH Esquire, Son and heir of NH Esquire, Grandfather of the said NH of a Plea that he keep to him the Covenant made between the said NH, the Grandfather in his life time, and the said NR according to the forme and effect of certaine Indentures thereof between the said NH the Grandfather, and the said NR and E the Wife of the said NR and WR, Son of the said NR made, &c. And whersupon the said NH the Plaintiff by E B, his Attorney saith, that whereas by a certain Indenture made at B aforesaid, the eleventh day of March, in the nineteenth yeare of the reign of the Lady Eliz. late Queen of England, between the said NH, the Grandfather, by the name of NH of, &c. of the one part, and the said NR by the name of NR, of, &c. and E his Wife, and W his Son of the other part: the other part wherof signed with the Seals of the said NR, E and W, the said NH bringeth here in Court, whose date is the same day and year, it is witnessed that whereas TR Father of the said NR, had, and held by writing indented, made by one RP Gent. bearing date the sixteenth day of July, in the four and twentieth year of the reign of H the eighth late King of England, two Messuages or Tenements, with the Lands, Meadows, and Pastures to the same belonging in B aforesaid, with the Appurtenances for terme of divers years then to come, which said writing indented, and all the state, terme of years, and interest in the Premises, the said TR surrendered into the hands of the said NH, the Grandfather, then being Lord and Proprietor of the Premises: the said NH in consideration thereof, and for and in consideration of fifty pounds of lawfull money of England to the said NH, well and truly contented and paid by the said NR, in the name of a Fine or Income had demised, granted, and to Farme letten, and by the same Indenture did demise, grant, and to Farm let, to the said NR all those two Tenements in B aforesaid, with all their Appurtenances, To have and to hold the said two Tenements with all and singular the Premises, with the Appurtenances to the said N for terme of his life, and after his decease, the said two Tenements with all and singular the Premises with the Appurtenances, should fully remaine to the said E for terme of her life: And after the decease of the said NR, and E that the said two Tenements should fully remaine to the said WR for terme of his life: And the said NR for himself, his Executors and Assignes, had covenanted, promised, and granted by the said Indenture, to and with the said NH, the Grandfather, his Heires, and Assignes, that the said NR and E his Wife, and the Executors and Assignes of the said NR, well and sufficiently should repaire, sustaine, maintaine, and keep all and singular the demised Premises, in all necessary reparations during the said terme or termes, and so in the end should leave the same taking in, and upon the Premises,

Premises, sufficient Haul-boot, Hey-boot, and Hedg-boot, without making of any waste, as by the same Indenture, amongst other things, more fully appeared. By virtue of which demise the said NR was seised of the Tenements aforesaid, with the Appurtenances in his demesne as of free-hold for terme of his life, the remainder thereof, after the decease of the said N to the said E for terme of her life, the remainder thereof after the decease of the said N and E, to the said W for terme of his life: And the said N so thereof being seised, the remainder thereof as abowe is limited, in forme aforesaid belonging: And the said NH the Grandfather of the Reversion thereof, as of fee and right being seised, the said NH the Grandfather, at B aforesaid dyed, of such his estate thereof, seised after whose death the Reversion of the Tenements aforesaid, with the Appurtenances did descend to the said H as Son and heir of the said NH the Grandfather, whereby the said H was seised of the Reversion of the Tenements aforesaid with the Appurtenances as of fee and right: And the said H so thereof being seised, and the said N of the Tenements aforesaid, with the Appurtenances in his demesne as of free-hold for terme of his life, in forme aforesaid being seised, the remainder thereof, as abowe is limited in forme aforesaid belonging, the said H, at B aforesaid dyed, of such estate thereof seised, after whose death the Reversion of the Tenements aforesaid, with the Appurtenances abowe demised, did descend to the same NH now Plaintiff, as Son & heir of the said H, whereby the said N was, & as yet is seised of the Reversion of the Tenements aforesaid, with the Appurtenances as of fee and right. And the said NH now Plaintiff further saith, that although the said NH the Grandfather in his life-time, and the said H after the death of the said N in his life-time, and also the said N now Plaintiff, after the death of the said H well and faithfully have performed and fulfilled all and singular the Covenants and Grants in the said Indenture abowe specified, on their parts and either of them to be fulfilled and performed, according to the forme and effect of that Indenture; Protesting also, that the said NR hath not fulfilled or kept any Covenants, or Grants in the said Indenture abowe specified, on his part to be fulfilled and performed according to the forme and effect of the said Indenture: In fact, the said NH Plaintiff saith, that the said NR after the death of the said H, and before the day of the bringing of the Originall Writ of the said N, that is to say, the first day of May, in the eighteenth year of the reign of the Lord the King that now is, suffered one Barn of the price of twenty pounds, and one House called the Com-house of the price of ten pounds, parcell of the Tenements aforesaid, with the Appurtenances abowe demised, to stand and be uncovered for want of thatching, whereby the Rafter and Timber of the same Houses, by Tempests of rain upon the same descending, are become putrid and corrupt, and those houses by reason of that corruption are threatened with ruin, and also the same first day of M, the eighteenth yeare abovesaid, suffered the Stone-Walls of the said Barn containing six perches to be ruined, and in decay for want of reparation, and also the same first day of M in the eighteenth year abovesaid, suffered ten Bars, and two Gates of a certaine Close of Pasture called the Gobe in B aforesaid, parcell of the Tenements aforesaid, with the Appurtenances abowe demised, to be broken down and carryed away, and also the same first day of M, in the eighteenth year abovesaid, suffered eight Bars, & two Gates, & forty Perches of Stone-Walls, and forty Perches of frith of certain Closes called the Hil Closes, in B aforesaid, parcell of the Tenements aforesaid with the Appurtenances abowe demised, to be putrified, corrupt, broken down, and carryed away, & also the same first day of M, in the eighteenth year abovesaid, suffered the Stone-Walls of a certaine Close of Land called A in B aforesaid, containing twenty Perches, parcell of the Tenements aforesaid abowe demised, to be cast down and destroyed for want of reparation, and also

also the same first day of M, in the eighteenth yeare abovesaid, suffered the Stone Walls of a certaine Close called M in B aforesaid, containing ten Perches, parcell of the Tenements aforesaid above demised, with the Appurtenances to be cast down, and destroyed for want of repairing of the same: And the said N H the Plaintiff further saith, that the said first day of M, in the tenth year of the said King, one house called a hall, of the price of 10 li. one kitchen of the price of 6 li. two chambers of the price of 10 li. one buttery of the price of 5 li. parcell of a certain Tenement called L Tenement, and parcell of the Tenements aforesaid above demised were totally ruined and in decay for want of reparation of the same: And that the said N R, these Tenements so being in decay & ruined, from the same first day of M, in the tenth year abovesaid, until the day of the bringing of the original writ of the said N H Plaintiff, that is to say, the seventh day of No. in the 18. year of the said King, did not repair and maintain, but by the whole time aforesaid suffered to be irrepaired, against the form and effect of the said Indenture: And so the said N R, although often required, the Covenant aforesaid, for that that the said N R, E his wife, and the Executors and Assigns of the said N R well and sufficiently should repair, sustain, maintain, and keep all and singular the demised premises in all necessary reparations during the said term; and so in the end thereof should leave the same to the said N H, hath not kept but broken, and the same to him hitherto to keep hath denied, and as yet doth deny, whereupon he saith, that he is the worse, and hath damage to the value of 100 li. and thereof he bringeth Sute, &c.

Barre that the Tenements were sufficiently repaired

And the said N R by I R his Attorney cometh and defendeth the force and among when, &c. And as to the breaking of the Covenant aforesaid, for that that the said N R suffered the said barn and the said other house, called the cow-house, to stand and be uncovered, for want of thatching of the same, above supposed to be done, the said N R by protestation that that barne and house were not of such price as the said N H Plaintiff by his Declaration aforesaid above doth suppose: For plea he saith, that the said barn and house aforesaid are, and the said first day of M, in the 18. year abovesaid, and from the same until the said day of bringing of the said original writ of the said N H Plaintiff were well and sufficiently repaired, without that that the same barn and house were uncovered for want of thatching of the same, as the said N H Plaintiff by his Declaration aforesaid above doth suppose: And this he is ready to prove, whereupon he prayeth judgment, if the said N his said Action thereof against him ought to have, &c. And as to the breaking of the Covenant aforesaid, for that that the said N R suffered the stone walls of the said barn to be ruined, and in decay for want of reparation the said N R saith, that the said N H Plaintiff his said action thereof against him ought not to have, because he saith, that the said stone walls by the whole time in the Declaration aforesaid above specified were well and sufficiently repaired, without that that the said N R suffered the said stone walls to be ruined and in decay for want of reparation of the same, as the said N H Plaintiff by his Declaration aforesaid above doth suppose: And this likewise he is ready to prove, whereupon he prayeth judgment if action, &c. And so of the rest, &c.

Traverse.

Replication and issue up on the Traverse.

And the said N H, as to the first Plea of the said N R as to the breaking of the Covenant aforesaid, for that that the said N R suffered the said barn and the said other house, called the cow-house, to stand and be uncovered for want of thatching of the same above in bar thereof pleaded, the said N H Plaintiff saith, that he by any thing in the same Plea alledged from having his said Action thereof against the said N R ought not to be barred, because as at first

he saith, that the same barne, &c. issue upon the traverse : And so of the rest. Several damages and costs entire.
 And the several issues found by verdict for the Plaintiff, and the Jury assesses several damages upon the several issues and costs entire, &c. Judgement for the Plaintiff.

Custody of the Land and Heir.

T 38. 02 39. Eliz. rot. 1703. Brownlow. Warr. fl. N S Cent. was summoned to answer E D of a Plea, that he render unto him the custody of the Land and Heir of I W, which to him belongeth, for that the same I holds the Land of him by Knights service, &c. And whereupon the same E by W B his Attorney saith, that the said I W was seised of the moiety of one Messuage, one Garden, &c. with the appurtenances, in C in the County aforesaid in his Demesne as of fee : And being so thereof seised the same J the moiety aforesaid, with the appurtenance, held of the same E as of his Mannor of C in the County aforesaid, by homage, fealty, & escuage of the L. the Queen, forty shillings, when it shall happen two shillings, & to more moze, &c. & to lesse lesse, &c. and for the rent of two shillings every year at the feasts of St. Michael the Archangel, and the Annunciation of the blessed Virgin Mary by equal portions yearly to be paid : And also by the service of making Suite to the Court of the said E at his Mannor aforesaid, from three weeks to three weekes, of which services the same E was seized by the hands of I, as by the hands of his true Tenant, to wit, of homage, fealty and escuage aforesaid, as of fee and right, and of the rent and Suite to the Court aforesaid in his Demesne as of fee, in the time of peace, in the time of the Lady the Queen now, taking thereof the profits, to the value, &c.
 And the same I dyed in homage of the said E, I W son and heir of the said I W the father being within age, whereby the custody of the moiety aforesaid, with the appurtenances, and of the same I W the son to the same E, until the full age of the same I W the son, belongeth. And the same N that custody to the same E unjustly deforceth, whereupon he saith he is the worse, and hath damage to the value of one hundred pounds : And thereof he bringeth Suite, &c.

Droit for the custody of the Lands and Heir.

T 5. Eliz. rot. 6566. P 34. H 8 rot. 437.

Exceptions taken to this, for that he said not that the Heires were within age, but is was adjudged good, but the better way is to say, that they were within age.

And the same N in his proper person cometh and defendeth the injury when, &c. And as to the custody of the said L, and the same N saith, that he cannot gain say that custody, but render it to the said T, because he saith, that he is not thereof Tenant, nor was at the day of purchasing the original writ of the same E, nor at any time afterwards, But one D I is, and at the same day and alwayes afterwards was, Tenant and Keeper of the land : And this he is ready to verifie, whereupon he prayeth judgment of that writ, &c. And as to the custody of the said Heir of the same I W, the same N saith, that he ought not to have his Action thereof, &c. because he saith, that the said I W the father was seised of the said moiety of the Tenements aforesaid, with the appurtenances, in his Demesne as of fee : And so being thereof seised, held the said moiety, with the appurtenances, of the said E, as of his Mannor of C aforesaid, in Socage, without, that the said I W the father held the said moiety, with the appurtenances, of the said E, as of his Mannor of C aforesaid, by Knights service, as the said E by his writ and Declaration aforesaid is supposed. Judgement if Action, &c.

Barre for that the Land is held in socage and not by Knights service.

Replication.

A P D the said E as to the said Plea of the said N, as to the custody of the Land aforesaid above, in quashing of the said Writ pleaded, saith, that the same Writ, as to the custody of the same Land, for the reason in the same alleged ought not to be quashed, because he saith, that the said N at the day of purchasing of the original Writ of the same E, to wit, the two and twentieth day of November, Anno Reg. &c. 38. was thereof Tenant, as of his free Tenement, as by his Writ and Declaration aforesaid is supposed. And this he prayeth may be inquired of by the Country. And the same M likewise. And as to the said Plea of the same N, as to the custody of the Heir aforesaid, above in barre pleaded, he saith, that he by any thing in the same Plea before alleged, ought not to be barred, because he saith, that the said J W the father held the moiety aforesaid with the appurtenances, of the said E, as of his Mannor of C aforesaid by Knights service, as he hath above alleged: And this he likewise prayeth may be inquired of by the Country, &c. See M. 17. and 18. Eliz. rot. 1685. right of Guardianship brought upon the Land, only in the case before the Jury found for the Plaintiff, only for the body of the Heir, but inquired not of the points of the Writ, but at a day in the bench a Writ was awarded to inquire, &c.

M 38. and 39. Eliz. rot. Brownlow. Berks.. ff. R D, and A his wife were summoned to answer I B C Esquire of a Plea, that they render unto him the custody of the Land and Heir of R N, which belongeth to the same I, for that the same R holds his Land of him in Knights service, &c. And whereupon the same I by T C his Attorney saith, that whereas the same R in his life time was seised of one Messuage and one Hood of Land, with the appurtenances, in B in the County aforesaid, in his Demesne as of fee: And being so thereof possessed, the same Messuage and Hood of Land, with the appurtenances, held of the said J as of his Mannor of D in the County aforesaid, by Knights service, that is to say, by homage, fealty, and escuage of the Lady the Queen, forty shillings when it shall happen two shillings, and more more, &c. or lesse lesse, &c. and by the rent of eight shillings every year, at the feasts of St. Thomas the Apostle, the Annunciation of the blessed Virgin Mary, the Nativity of St. John the Baptist, and St. Michael the Archangel, by equal portions yearly to be paid. And also by the service to make Suite at the Court of the said J of his said Mannor, from three weeks unto three weeks, at that Mannor yearly to be held, of which services the same I was seised by the hands of the said R, as by the hands of the true Tenants, to wit, by homage, fealty and suite of the Court aforesaid, as of fee and right, and of the escuage and rent aforesaid, in his Demesne as of fee, in the time of peace, in the time of the Lady the Queen, now taking thereof the profit, to the value, &c. And the same R being so seised of the Tenements aforesaid, with the appurtenances, in form as aforesaid, the same R N had issue, one I N, and died in homage of the said I B C, &c. the same J N son and heir of the said R N at the time of the death of the said R, being, and yet is, within the age of one and twenty yeares, whereby the custody of the said Messuage and Hood of Land, with the appurtenances, and of the said I N, by reason of the minority of the said I N to the same I B C belonged. And the same R and A unjustly de seized the same I B C thereof; whereupon he saith, he is the worse, and hath damage to the value of two hundred pounds: And thereof he prayeth Suite, &c.

And

AND the said R and A by I L their Attorney come, &c. And as to the Replication.
 custody of the said Heir, the same R and A say, that they disfeised not the
 same I B and C of the custody of the same Heir, as the same I B C hath above
 declared against them. And of this they put themselves upon the Country.
 And the said I B C likewise. And as to the custody of the Tenements a-
 fozelaid, the same R and A say, Action none, because they say, that well and true
 it is, that the same R N was seised of the Tenements afozelaid, with the ap-
 purtenances, in his Demesne as of fee, pro ut, &c. but the same R and A say
 further, that the said R N being so seised of the Tenements afozelaid, held the
 same Tenements, with the appurtenances, of the same J B C, as of his Man-
 nor of D in free Socage, to wit, by fealty, and the rent of eight shillings eve-
 ry year at the same Feasts, to wit, St. Thomas the Apostle, &c. by equal por-
 tions to be paid: And also by doing Suit to the Court, &c. as above, &c. And
 being so thereof seised, the same R the two and twentieth day of Aug. Anno
 Dom. 1585. at B afozelaid, made his Testament and last Will in writing,
 and by the same last Will gave and bequeathed the Tenements afozelaid, with
 the appurtenances, to one I F, and to the same A the Wife of the same R, to
 have and to hold the same Tenements, with the appurtenances, to the same J
 F and A, for and during the minority of the said I N the son of the said R. And
 afterwards, to wit, the thirtieth day of August, Anno 1585. above said, at B
 afozelaid died, of such his estate thereof seised, the same J N then being within
 the age of one and twenty years, that is to say, of the age of nine yeares, after
 the death of which said R, the same I F and A into the Tenements afozelaid,
 with the appurtenances entred, and were thereof possessed, by virtue of the
 same Legacy: And the same I F and A being so thereof possessed, the same A
 at B afozelaid took to Husband the same R B, whereby the same R and A in the
 right of the said A and the same I F were & yet are possessed of the Tenements
 afozelaid, with the appurtenances, without that, that the said R N held the
 Tenements afozelaid, with the appurtenances, of the said I B C, as of his
 said Manor, by Knights service, as the said I B C above against them decla-
 red: And this they are ready to verifie, whereupon they pray judgment if
 Action, &c.

Williams.

AND the same I B C saith, that he ought not to be barred, &c. because he
 saith, that the same R N held the Tenements afozelaid, with the appur- Rejoinder.
 tenances, of the said I B C, as of his Manor afozelaid, by Knights service,
 as the same I B C hath above alledged: And this he prayeth may be inqui-
 red of by the Country: And the same R and A likewise. Therefore as well
 to try that issue, as the same other issue above joyned: It is commanded the
 Sheriff, that he cause to come here in Oct. sci. hill. 12, &c.

Edw. Drewe.

H39. Eliz. Roll. 1715. ff. R H was summoned to answer M C and V
 F R, whose custody doth belong to the same M C, for that the same F held
 the Land of the same M and V by Knights service, &c. And declares that the
 father was seised of Lands, &c. and held them of the same M and V, as of the
 Manor, &c. by Knights service, and alledgeith the seizin of Services in the
 right of his Wife, and that the father died in homage to the Husband and
 Declaration
 in a Writ of
 right of the
 custody of an
 Heir brought
 by the Hus-
 band & Wife,
 H 27. H 9.
 Wife, Roll. 420.

Wife, the same R being within the age of one and twenty years, that is to say, of the age of, &c. And that the custody of the same R, by reason of his minority, doth belong to the same M and V in the right of V. And the same R doth disseize the same M and V unjustly of the same custody; whereupon, &c. The Defendant confesseth, that the father was seised in fee, pro ut, &c. but saith, that he held in Socage, and traверsely the tenure in Knights service, &c.

Right of the
Guardianship
of the Land
only.

H 5. H 6, Roll. 339. ff. R W against E G, who was the Wife of I G, of a Plea, that he render unto him the custody of the Pannoz of G, with the appurtenances, which belongeth to the same R, for that the same J G held the same of him by Knights service &c. the Jury being called likewise came, who to speak the truth of the within contained, being elected, tried, and sworn, say upon their oath, that the within named I G the father, &c. at the time of his death, held of the same R the Pannoz within written, as the same R by pleading hath alleged. And that the same Jury being thereunto requested by the Court, may further upon their oath aforesaid say, what day the said I G the father died; and how much the custody of the said Pannoz is worth by the year, besides reprises: And what day the within named I the son of the said I the father, was born, and of what age he is, and who and what profits the said Guardian from the time of the death of the said I the father hath hitherto received; that the said I, the father of the same I, dyed on Saturday next before, &c. Anno 9. H 5. And that the custody of the Pannoz aforesaid, with the appurtenances, is worth by the year, besides reprises, twenty marks, and the same I the son was born, &c. Anno H 5. after the conquest the eight ann. and is of the age of six yeares and moze: And that the same Eliz. hath hitherto disseised the same R of the custody aforesaid, from the time of the said I G the father of the said I, and received the issues and profits thereof; and assesse the damages of the same R by occasion that the same E disseised the said R of the custody aforesaid, besides costs, &c. laid out, to one hundred & ten marks; and for those costs and charges to ten marks, therefore it is considered, that the same R recover against the same Eliz. the custody aforesaid, and his damages aforesaid, by the Jury aforesaid, in form aforesaid assesse, to one hundred and twenty marks. And the said Eliz. in mercy, &c. Satisfaction confessed for the damages.

Mercy.

M 4. H 8.
the like
Judgment
with costs of
increase.

Damages one hundred and ten marks, whereof to K D, T H, and T B, Clerks, &c. forty shillings.

J W 17 28

Communi



Communi Custodia.

M 12. H 8. rot. 638. T 38. Eliz. rot. 1703. Lincol'n. ss. H Abbot of the Monastery of M, &c. in the County aforesaid, in mercy for moze defaults, &c. The same Abbot was summoned to answer W L of a Plea, that he render unto him the custody of the Land and heire of the same H H, which to him belongeth, for that the same Henry holdeth his Land of him by knights service, &c. And whereupon the same Plaintiff, by A D his Attorney saith, that the same H H was seised of two tofts and two crofts, with the appurtenances, in I in the County aforesaid in his Demesne as of fee: And being so thereof seised, held the same of the said Plaintiff as of his Pannoz of I in the County aforesaid by knights service, to wit, by homage, fealty and escuage of the Lord the King of forty shillings, when it shall happen, two shillings, and unto moze moze, &c. and unto lesse lesse, &c. and by the rent of five shillings every year at the Feast of St. Michael the Archangel, the Annunciation, &c. by equal portions to be paid: And also to do service to the Court of the same Plaintiff at his Pannoz aforesaid, once a year at the same Pannoz yearly to be held, of which services the same Plaintiff was seised by the hands of the same H H, as by the hands of the true Tenant thereof, to wit, of the homage, fealty and lute of Court aforesaid, as in fee and right, and of the escuage and rent aforesaid in his Demesne as of fee, in the time of peace, in the time of the Lord the King now, taking thereof the profits, to the value, &c. And the same H H had issue T H, and died in homage of the said Plaintiff, the same T at the time of the death of the said H H, and yet being within the age of one and twenty yeares, whereby the custody of the Land and Heir aforesaid, until the full age of the same T, belongeth to the same Plaintiff: And the same Abbot the custody of the Land and Heir aforesaid from the same Plaintiff unjustly despoileth: Whereupon he saith, he is the worse, and hath damage to the value of one hundred markes: And thereof bringeth lute, &c.

Count in brief
De Communi
Custodia.

A D the same Abbot by A I his Attorney cometh and defendeth the force and wrong, when, &c. and as to the custody of the Tenements aforesaid, with the appurtenances, the same Abbot saith, that he is not Tenant thereof, nor was at the day of the purchasing of the original writ of the same Plaintiff, nor any time afterwards: And this he is ready to verifie, whereupon, as to the custody of those Tenements, with the appurtenances, the same Abbot prayeth judgment of the writ, &c. And as to the custody of the Heir aforesaid, the same A saith, that the same Plaintiff Action none, that the said H H was seised of three messuages and sixty acres of Land, with the appurtenances, in I aforesaid in his Demesne as of fee: And being so thereof seised, the same Tenements, with the appurtenances, held of the same Abbot, as in the right of his Monastery aforesaid, by knights service, to wit, by homage, fealty, & escuage

The Defend.
as to the Land
pleads non-
tenure, and as
to the body,
that the father
of the heir and his
Ancestors
holdeth of
the Defend. &
his ancestors,
by ancient ten-
ement, &c.

escuage of the Lord the King of forty shillings when it should happen, two shillings, & unto more more, &c. and unto lesse lesse, &c. And by the rent of five shillings every year at the feasts, &c. by equal portions to be paid, of which services the same Abbot was seised by the hands of H. H. as by the hands of the true Tenant, to wit, of the homage and fealty aforesaid, as in fee and right, and of the escuage and rent aforesaid in his Demesne as of fee, in the right of his Monastery in the time of peace, in the time of the Lord the King now, taking thereof the profits, to the value, &c.

And further the same Abbot saith, that the same H. H. and all his predecessors, whose Heir he is, held the same Messuages & sixty acres of Land, with the appurtenances, of the same Abbot and his predecessors by ancient feoffment, by which they held the Tenements aforesaid, with the appurtenances, in the Declaration aforesaid above specified, of the same Plaintiff and his Ancestors: And the same H. H. had issue the same T., and died in homage of the same Abbot: The same Thomas the same time of the death of the same Henry, and yet being within the age of one and twenty yeares, by process whereof the custody of the same Tho. unto his full age belongeth to the said Abbot, by which the said Abbot the body of the said Thomas took and seised him to his possession, and kept him by him, as to him it was lawful, and this he is ready to verifie, whereupon he prayeth judgment, if the same Plaintiff ought to have his Action thereof against him, &c.

AND the said Plaintiff, as to the same Plea of the said Abbot in quashing of the Writ aforesaid above pleaded, saith, that that Writ, by reason of the said Plea, ought not to be quashed, because he saith, that the day of purchasing of the original Writ aforesaid, to wit, the third day of April, Anno Reg. now 41. the same Abbot was Tenant of the Tenements in the same Writ specified, with the appurtenances, as by the said Writ is above supposed: And thus he prayeth may be inquired of by the Country: And the same Abbot likewise: And as to the same Plea of the said Abbot for the custody of the Writ aforesaid above in barre pleaded the same Plaintiff saith, that he by any thing in the same Plea before alledged, ought not to be barred from having his Action aforesaid of the custody of the Heir aforesaid, because he saith, that the same H. H. was seised of the aforesaid two tofts, and two crofts, with the appurtenances, in 1 aforesaid in his Demesne as of fee: And being so thereof seised, the same Tenements, with the appurtenances, held of the same Plaintiff, as of his Mannor aforesaid, by Knights service, to wit, by homage, fealty and escuage of the Lord the King of forty shillings, when it should happen, two shillings, and to more more, &c. and to lesse lesse, &c. and by the rent of five shillings and six pence every year at the feasts, &c. by equal portions to be paid. And also by the service of doing sute at the Court of the same Plaintiff at his Mannor aforesaid, once a year to be held at the same Mannor, of which services the same Plaintiff being seised by the hands of H. H. as by the hands of the true Tenant, to wit, of homage, fealty and suit of Court aforesaid, as of fee and right; and of the escuage and rent aforesaid in his Demesne as of fee, in the time of peace in the time of the Lord the King, now taking thereof the profits, to the value, &c. And the same Henry had issue the same Thomas and died in the homage of the said Plaintiff. The same Thomas at the time of the death of the said H. H., being within age of one and twenty yeares, where by the custody of the Land and Heir aforesaid, until the full age of the same Tho. belongeth to the same Plaintiff, as by his Declaration aforesaid above is supposed, without this, that the said H. H. held the same three Messuages, and sixty acres of Land of the same Abbot by Knights service, as the same Abbot

hath above alledged : And this he is ready to verifie, whereupon he prayeth judgment ; and the custody of the Heir aforesaid , together with the damages aforesaid to him to be adjudged, &c.

And the same Abbot as befoze saith , that the same H H held the said three Messuages and sixty acres of Land with the appurtenances of the same Abbot , as in the right of his Monastery aforesaid , as he hath above alledged : And upon this he putteth himself upon the Countrey : and the same Plaintiff likewise : Wherefoze twelue, &c.

H 10. H 8. rot. 233. Buck. M B Widow was summoned to Communis Custodia.
 Answer A W Knight of a Plea, that he render unto him the custody of the fourth part of the Mannor of H, and eight Messuages, one Mill, one hundred acres of Land, four acres of Meadows, and twenty acres of Wood, with the appurtenances, in Horton, which belongeth to the same Plaintiff, for that E B Esquire held the Tenements aforesaid of him by Knights service, &c. And whereupon the same Plaintiff by I M his Attorney saith, that the said Edw. held of the same Plaintiff, as of his Mannor of S, in the County of Middlesex, the fourth part aforesaid, with the appurtenances, by homage, fealty and escuage of the Lord the King of forty shillings, when it should happen two shillings, &c. and by the rent of thirteen shillings and four pence, &c. to be paid, and also by the service to do Sutes at the Court of the said Plaintiff, at his Mannor aforesaid, from three weeks to three weeks yearly to be held : Of which services the said Plaintiff was seized by the hands of the said Edw. as by the hands of the true Tenant, to wit, of homage, fealty and Sutes of Court aforesaid, as of fee and right, and of the escuage and rent aforesaid in his Demesne as of fee, in the time of peace, in the time of the Lord the King now ; which said Edw. died in homage of the said Plaintiff Geo. B Son and Heir of the said Edw. (or so) of consanguinity and Heir of the said Edw. to wit, Son of W, Son of the said Edw. being within age, to wit, of the age of twelue yeares, whereby the custody of the fourth part aforesaid, with the appurtenances, by reason of the minority of the said G, until the full age of the same G, belongeth to the same Plaintiff, the same Defendant of the same custody unjustly deforzeth the said Plaintiff, whereupon he saith, he is the worse, &c. damages two hundred pounds, &c.

And the same Defendant by W C his Attorney cometh, &c. and saith, that he cannot gain-say the Action of the said Plaintiff aforesaid, nor but that the said E held the fourth part aforesaid, with the appurtenances, of the same Plaintiff by Knights service, nor but that the same Edw. died in homage of the said Plaintiff, the same Geo. Son and Heir of the same Edw. being within age of one and twenty yeares, nor but that the custody of the fourth part aforesaid, with the appurtenances, by reason of the minority of the said Geo. untill the full of the said Geo. belongeth to the said Plaintiff, nor but that he deforzeth the same Plaintiff of that custody, as the same Plaintiff above against him declareth, therefore it is considered, that the said Plaintiff recover against the said Defendant the custody of the fourth part aforesaid, with the appurtenances, Action confessed in a Writ De Communi Custodia.

nances, and his damages, by occasion of the premises, to twenty pounds to the same Plaintiff of his consent by the Court here adjudged. And the same Defendant in mercy, &c. whereupon the same Plaintiff freely in Court here remitteth to the same Defendant his damages aforesaid: Therefore the same Defendant of those damages be acquitted, &c.

Com. Custod.
for the King:

Ess. ff. And whereupon the same W, who for the same Lord the King followeth saith, that the said T held of the said Lord the King, as of his Duchy of Lancaster, the same Mannor, with the appurtenances, by knights service, to wit, by homage, fealty and escuage of the Lord the King of forty shillings, &c. And by the service to make Suite to the Court of the said Lord the King at Walbrook in London, at Walbrook once by the year, to wit, at the Feast, &c. Of which services the said Lord the King was seised as in fee and right by the hands of the same M, as by the hands of the true Tenant, and died in homage of the said Lord the King; whereby, and by reason of the minority of the same A, and I Daughters and Heirs of the same M, the custody aforesaid belongeth to the said Lord the King: And the same Defendant the same from him unjustly despoiseth, to the damage of the Lord the King of twenty pounds, and this, &c.

Debt

Debt.

L Ondon H. R. P. late of L. Gentleman, O. C. &c. was summoned to answer I. C. and M. his Wife, late called, &c. of a plea that her render to them two hundred pound which her oweth them, and unjustly, detaineth, &c. And whereupon the same I and M by O. P. their Attorney say, that whereas the aforesaid R, such a day and year at L, &c. by his certain Bill Obligatory, which the same I and M with the seal of the aforesaid R, signed here in Court shew forth the date whereof, is the same day and year, had acknowledged himself to owe to the said M while she was sole, one hundred pound of lawful Money of England, to be paid to the same M while she was sole, in or upon such a day and year, at or in the then dwelling House, &c. for which said payment well and faithfully to be made as aforesaid, the same R had bound himself his Heirs, Executors, and Administrators, and every of them firmly by the same Bill, in the summe of Two hundred pound of the Money of England. And the same I and M in fact say; that the aforesaid R did not pay to the same M while she was sole, the aforesaid hundred pound upon such a day, &c. which to her upon the same day he ought to have paid according to the form and effect of the Bill aforesaid, or to the same I and M after the espousalls between them celebrated, whereby an Action did accrue to the same I and M to require and have of the aforesaid R, the said Two hundred pounds: Wherefore, the aforesaid R, although oftentimes required the aforesaid Two hundred pounds to the same M while she was sole, or to the said I and M after the Espousalls betwixen them celebrated, hath not rendered, but the same to them hitherto, to render her hath denyed, and still doth deny, whereupon they say that, &c.

And the aforesaid R by A. R. his Attorney comes, &c. And saies that Action not &c. because hee saies that the Bill aforesaid here in Court shewed forth was made and sealed such a day and year at, &c. by the same R, and one T. G. to the same M. W. while she was sole, and to the same M. by the aforesaid R. P. and the said T. G. as the deed of them, the said R. and T. then and there sealed and delivered. And that the same T. G. then and there by the same Bill obligatory, jointly and dividedly together with the aforesaid R. P. did acknowledge himself to owe to the same M. while she was sole, the aforesaid hundred pound of Lawful Money of England, in manner and form as the same I and M above against the said R. have declared. And to the same payment well and faithfully to be made, hee bound himself, his Heirs, Executors, and Administrators, and every of them, firmly by the same Bill in the aforesaid Two hundred pound. And the same R. further saith, that after the making of the Bill aforesaid, and before the day of the obtaining of the Original writ of the same I and M (that is to say) such a day and year at, &c. the said T. made his Testament and last Will, and of the same his Testament and last will one I. then his Wife, his Executrix did constitute. And afterwards there dyed; After whose death the said I. did take upon her the burden of the Execution of the Testament aforesaid; And others Goods and Chattels which were of the aforesaid T. at the time of his death, as Executrix of the same T., did then and there Administer; And that afterwards, and before the day of the obtaining of the Original writ of the same I and M (that is to say) the fourth day of M, such a year, &c. at, &c. the aforesaid I, late the wife, and Executrix of the Testament of the aforesaid T. G. did take to her Husband one I. G. of C. P.oman, and afterwards dyed; After whose death (that is to say) such a day and year at, &c. the same I. G. as Executrix of the Testament and last Will of the aforesaid T. G. others Goods and Chattels which were of the aforesaid T. G. at the time of his death; by the same I. Executrix of the

A Declaration in Debt by the Husband and Wife, upon a Bill Penal made to the wife while she was sole, H. 10. of King Charles.

The Defendant confesses the bill made by him and one, T. G.

Jointly and severally.

T made his Will and I his wife Executrix and dyed.

Which I Administers. I the Executrix take to Husband one I. G. and dies. I G. Administers of the goods of T. G. nor administered by I the Executrix, &c.

M took to husband the said I C.

Which I C makes a general release to the said I G Executor of the said T G.

Note.

The averments.

1
2
3

Testament, and last will of the same T, and late wife of the aforesaid I G in the life time of the same I not Administred did Administer.

And the same R further saith, that the aforesaid M did take to her husband the said I C; And that after the Espousals aforesaid; between them the said I C and the aforesaid M solemnized and celebrated, and before the day of the obtaining of the Original writ of the same I C, and the aforesaid M his wife (that is to say) such a day the said I C by the name, &c. by a certain writing of Release, which the same R with the Seal of the aforesaid I C Signed here in Court sheweth forth, the Date whereof is the same day and year for himself, his Heirs, Executors, and Administrators, did Remit, Release, and quite claim to the aforesaid I G Executor of the Testament and last Will of the aforesaid T G, as aforesaid, being by the name, &c. all and all manner of Suites, Actions, Writings, Obligatory Bills, Obligatory Judgements, Condemnations, Executions, and all other Demands; Debts, and Incumbrances whatsoever; As by the same writing of Release, it more fully appeareth; And this hee is ready to verifie, whereupon he prays Judgement, whether the aforesaid I and M against the aforesaid Paper, writing of Release of the same I, ought to have their Action aforesaid against the same R &c. With this that the same R will averre, that the aforesaid I C now the Plaintiff named, and the aforesaid I C in the said writing of Release named, are one and the same person, not others, nor diverse; And that the aforesaid I G in the Plea aforesaid above named; And the aforesaid I G in the aforesaid writing of Release named, are one and the same person, not other, nor diverse; And that the aforesaid T G in the Will aforesaid named, And the aforesaid T G in the Plea aforesaid, the Testator above named are one and the same person; and not other nor divers.

Hence.

Reply.

Before the Release made I the wife, &c. dyed

And the aforesaid I and M, say that they by any things before alleaged, ought not to be barred from having their action aforesaid, because they say that before the aforesaid time in which it is supposed, the said writing of Release above to be made (that is to say) such a day and year, the aforesaid I the wife of the aforesaid G, and Executrix of the said T G at, &c. dyed. And this they are ready to verifie, whence soasmuch as the aforesaid R, the debt aforesaid above acknowledgeth, the same I and M pray judgement, and the Debt aforesaid, together with their damages, by occasion of the detaining of the same Debt to them, to be adjudged, &c.

Bramston.

The defendant demurs to the Reply.

And the aforesaid R saith, that the aforesaid Plea of the said I and M above in Replying pleaded, and the matter in the same Plea contained are not sufficient in the Law to maintain them the said I and M, to have their Action aforesaid against the same R, And that hee to the same Plea in manner and form aforesaid pleaded, needeth not, nor by the Law of the Land is bound to Answer; And this hee is ready to verifie, whence for want of a sufficient Replication of the said I and M, to the aforesaid Plea of the said R, above in Bar pleaded in this behalf, the same R prayeth Judgement; And that the aforesaid I and M be barred from having their Action aforesaid against the same R, &c.

A Declaration in Debt upon an Obligation, whereunto the Defendant pleads a former recovery upon the same Obligation.

Al G late of E in the County aforesaid y. o. c. I G de E, &c was summoned to Answer L H Gentleman, of a Plea that hee render to him forty pound which hee oweth him, & unjustly detaineth, &c. And whereupon the same L by W W his Attorney saith, that whereas the aforesaid I, the twenty fourth day of I in the thirtieth eighth year of the reign of the Lady Elizabeth late Queen of England at S, by his certain writing Obligatory had granted himself to be holden to the same L in the aforesaid forty pounds. To be paid

to the same L when hee had been thereunto required; Hebert thelesse the aforesaid L, although oftentimes required the aforesaid forty pound to the same L hath not as yet rendered, but the same to him hitherto to render hee hath denyed, and still doth deny, whereupon hee saith, &c. damage ten pound, And thereof hee bringeth suite, &c. And hee sheweth forth here in Court, &c.

And the aforesaid I by H. I. his Attorneys comes and defends the force and injury when, &c. and prates, &c. The condition, &c. And saies that the aforesaid L ought not to have his action aforesaid against him, because hee saies that the aforesaid L elsewhere (that is to say) the twelfth day of April, in the fortieth year of the Reigne of the Lady Elizabeth, late Queen of England, forth of the Court of Chancery of the said late Queen (the same Court of Chancery at Westminster in the County of Middlesex then being) did prosecute a certain original Writ of the same late Queen against him the said J G, to the then Sheriffe of the City of E. directed, by which said Writ the same late Queen did command, the same then Sheriffe of the City of E. that the same then Sheriffe should command the said J by the name of J G late of, &c. that justly and without delay hee should render to the said L forty pound, which to him hee then owed, and unjustly detained, as hee saith, And unless hee had done it. And the aforesaid L had secured the same then Sheriffe of prosecuting his complaint, Then the same Sheriffe should summon by good Summoners him the said L, that hee should be before the Justices of the same late Queen here (that is to say) at Westminster aforesaid from Easter day in fifteen dates then next following, to shew wherefore hee had not done it, And that the aforesaid then Sheriffe should have then here the Summoners, and that Writ at which day before Edmond Anderson Knight, and his Associates, then the Justices of the said late Queen of the Bench here (that is to say) at W aforesaid, came the aforesaid L by his then Attorneys, And A M then Sheriffe of the aforesaid City of E. did return the Writ aforesaid in all things served and executed (that is to say) that the said L had found to the same then Sheriffe Pledges to prosecute the same Writ (that is to say) John Doe, and Richard Roe, and that the said J had nothing in his bailiwick where hee might be summoned, And the same J then came not, whereupon it was then commanded the said then Sheriffe, that hee should take the same J if &c. And safely, &c. so that hee should have his body here (that is to say) at W aforesaid from Easter day, in five weeks then next following to answer the aforesaid L of the aforesaid Plea. At which day here (that is to say) at W aforesaid, came the said L by his Attorneys aforesaid, And offered himself the fourth day against him the said J of the aforesaid Plea. And hee then came not, And the said A M then Sheriffe of the City aforesaid, then certified that the said J was not to be found, &c. Therefore as formerly it was then commanded the same then Sheriffe, that hee should take the same J if, &c. And safely, &c. and so that hee should have his body before the then Justices of the said late Queen here (that is to say) at W aforesaid in the morrow of the holy Trinity then next following, to answer the said L of the aforesaid Plea, At which day here (that is to say) at W aforesaid came the said L by his Attorneys aforesaid, and offered himself the fourth day against him the said J of the aforesaid Plea, and hee then came not, And the aforesaid A M then Sheriffe of the City aforesaid, then certified that the said J was not to be found, &c. Therefore as many times it was then commanded the same then Sheriffe of the City aforesaid, that hee should take the said J, if, &c. And safely, &c. so that hee should have his body before the then Justices of the said late Queen at W aforesaid from the day of the holy Trinity in three weeks then next following, to answer the said L of the aforesaid Plea, At which day here (that is to say) at W aforesaid came the said L by his then Attorneys, and offered himself the fourth day against the same J of the aforesaid Plea, And hee then came not, And the aforesaid A M then Sheriffe of the City aforesaid, then certified that the said J was not to be found, &c.

Original.

Return thereof.

Capias.

Alias cap.

Plur. cap.

And Exigent
awarded.

The Appea-
rance of the
parties.

Declaration.

Imparlance.

Not informed.

Judgement.

Averment of
the same Obl.

Debt upon two
penal Bills
Obligatory,
the Defendant
pleads per mi-
nas.

Wherefore it was then commanded, the said then Sheriffe of the City aforesaid, that hee should cause to bee called the aforesaid I, from County to County, until, &c. if not, &c. And if, &c. then hee should take him, and safely, &c. so that hee should have his body before the then Justices of the said late Queen here (that is to say) at W aforesaid, from the day of St. Martin in fifteen daies then next following, to answer to the said L of the aforesaid Plea. At which day before the said then Justices here (that is to say) at W aforesaid came as well the said L by J M then his Attorneys as the aforesaid J by T W then his Attorneys, whereupon the said L in declaring against the same J G upon his writ aforesaid, by the said J M, then his Attorneys, said, that whereas the aforesaid I the twenty fourth day of June, in the thirty eighth year of the Reigne of the said late Queen Elizabeth, at the City of E by his certain writing Obligation, had granted himself to bee holden to the said L in the aforesaid forty pound, to be paid to the same L when hee should bee thereunto required.

Nevertheless the aforesaid I, although oftentimes required the aforesaid forty pound, to the same L, before that time had not rendered, but the same to him, until that time to render hee had denved, and then did deny, whereupon hee then said, that hee was the worse, and had damage to the value of ten pounds. And thereof then hee brought suite, &c. And hee then shewed forth there in the said Court, the writing aforesaid which the said Debt in forme aforesaid did then witness, the date whereof was the day and year aforesaid, &c. And the aforesaid I by T W, then his Attorneys did then defend the force and injury when, &c. And then prayed License to speak together thereof here, until in eight daies of St. H. then next following, and hee then had it, &c. The same day was then given to the said L here, &c. At which day hee came as well the said L as the aforesaid I by their then Attorneys aforesaid, whereupon the said L as before in declaring against the said I upon his writ aforesaid in forme aforesaid, said, that whereas the aforesaid I the twenty fourth day of June, &c. as in the last recited declaration until, the date whereof was the day and year aforesaid, &c. And the aforesaid I by the said T W then his Attorneys did then defend the force and injury when, &c. And the same Attorneys then said that hee was not informed by the same I his Client of any answer for the same I to the said L in that action to bee then given, And then said nothing else thereunto, whereby the same L then remained against the said I thereof without defence; Wherefore it was then considered, that the said L should recover against the aforesaid I his Debt aforesaid and his damages by occasion of the detaining of that Debt to forty shillings to the same L with his assent by the Court of the said late Queen then there adjudged; And that the aforesaid I should then be in mercy, &c. as by the record thereof in the Court of the Lord the King that now is here residing it more fully appeareth; And the same I further said, that the aforesaid writing Obligation in the record aforesaid above specified, upon which the said I first against the same I did declare; And the same writing Obligation now here in Court shewed forth upon which the said I against the same I hath now declared, are one and the same, and not other matters; And this hee is ready to verifie, whereupon hee prays Judgement whether the said L ought to have his action aforesaid against him, &c.

D S R L late of B in the County aforesaid Mercer o. c. &c. was summoned to answer A L of a Plea that hee render to him twelve pound, which to him he oweth, and unjustly detaineth, &c. And whereupon the same A by VV VV his Attorneys, said, that whereas the aforesaid R the second day of D in the year of our Lord, 1611 at B by his certain Will Obligation, which the same A with the Seal of him the said R signed here in Court shewed forth; The date whereof is the same day and year, had acknowledged himself to owe to the same A fifty four shillings of lawful money of England, to be paid to the same A by his Executors, Administrators, or Assignes at or before the second day of M then

then next, and immediately following after the date of the same Bill, and for the same payment well and faithfully to be made, the aforesaid R had bound himself in six pounds by the same Bill, And the same A in fact saith, that the aforesaid R did not pay to the same A at, or before the aforesaid second day of May next, and immediately following after the date of the said Bill the aforesaid six four shillings, according to the form and effect of the same Bill, whereby an action hath accrued to the said A, to require and have of the aforesaid R the same six pound of the aforesaid twelve pound by the same Bill; And also whereas the aforesaid R the said second day of D in the aforesaid year of our Lord, 1611 at B aforesaid by his certain other Bill Obligatory which the same A with the seal of him the said R likewise signed here in Court sheweth forth, the date whereof is the same day and year, had acknowledged himself to owe to the same A three pound of lawful money of England, to be paid to the same A his Executors, Administrators, or Assignes, at or before the first day of D then next, and immediately following after the date of the same Bill; And for the same payment well and faithfully to be paid, the said R had bound himself in six pound by the same Bill; And the same A in fact saith, that the aforesaid R did not pay to the said A at or upon the first day of D as, &c. whereby an action did accrue, &c.

Action not, because hee saith that the aforesaid A at the time of the making of the Bills aforesaid, upon him the said R such and so great threats of his life, and maiming of his members to him to be done, unless the same R the Bills aforesaid to the said A would make and seal at B aforesaid, did impeach that the same R the said Bills for fear of those threats to the said A then and there did make, and this hee is ready to verifie, whereupon hee prayeth Judgement whether the said A ought to have his Action aforesaid against him, &c.

By Threats

And the said A saith, that hee by any things before alledged, ought not to be barred from having his Action aforesaid, because hee saith, that the aforesaid R at the time of the making of the Bill aforesaid was at his own disposal at large, and the same Bills of his own meer and spontaneous will to the same A did make, And not for fear of threats, As the aforesaid R hath above alledged; And this hee prates, that it bee inquired by the Country; And the said R likewise, therefore, &c. return fifteen of St. Martin, &c.

Reply.

S. M. I. late of T. in the County of G. Widow administratrix of the goods and chattels which were of I. L. during the minority of M. L. daughter and executrix of the testament of the aforesaid I. L. late called I. L. of T, &c. Per-Grant, was summoned to answer R. B. of a Plea that shee render to him forty pound, which from him shee unjustly detaineth, &c. And whereupon the same R. by VV. VV. his Attorney saith, that whereas the aforesaid I. in his life time the tenth day of M. in the year, &c. at the City of E. by his certain Bill Obligatory which the same R. with the seal of the said I. in his life time signed, here in Court sheweth forth; The date whereof is the same day and year, had acknowledged himself to owe to the same R. the aforesaid forty pound, to be paid to the same R. at or upon the last day of N. then next following; And to the same payment the aforesaid I. had bound himself, his Heirs, and Executors, firmly by the same Bill; Wherefore the aforesaid J in his life time, and the said M. the Administratrix after the death of the same J. do whom the Administration of all the goods and chattels which were of the said J. at the time of his death by R. by the divine providence, Arch Bishop of Canterbury, Primate and Metropolitan of all England, the, &c. at L. in the County of Surrey, during the minority of the aforesaid M. the Executrix, who still is living (that is to say) at the aforesaid City of E. and within age after the death

City of E.
Debt upon a
single Bill a-
gainst an Ad-
ministratrix
during the mi-
nority of the
Daughter and
Executrix, &c.

C e e

of

of the said J. was committed, although oftentimes required the aforesaid R. to be paid to the same R. have not rendered, but the same to him to render hee have denved; And the said M. the Administratrix, the same to him still to render doth deny, and unjustly detain, whereupon hee saith, that hee is the worse, &c. damage twenty pound; And thereof hee bringeth suite, &c.

Fully admini-
fired at the
time of the
first notice of
the Action.

And the aforesaid M. the Administratrix by R. B. her Attorney, comes and defends the force and injury which, &c. And saith that the aforesaid R. B. ought not to have his action aforesaid against her, because shee saith, that the said M. is, and at the time of the obtaining of the Original Writ of the said R. B. and long before was commorant and inhabiting in T. in the County of G. And that shee first had notice of the aforesaid Action of the said R. B. against her in form aforesaid, prosecuted the first day of S. in the eighth year of the Reign of the said Lord the King that now is, and not before; Before which said first day of S. the same M. had fully administered all the goods and chattels which were of the said J. at the time of his death; And that shee had no goods nor chattels which were of the said J. at the time of his death in her hands to be administered, nor had at the aforesaid first day of S. nor at any time afterwards, and this shee is ready to verifie, whereupon, &c.

Reply:

Protesting no-
tice before.

And for Plea,
assess in her
hands.

And the aforesaid R. saith, that hee by any things before alleged, ought not to be barred from having his Action aforesaid, because by protesting that the aforesaid M. the Administratrix had notice of the aforesaid Action of the said R. against her in form aforesaid, prosecuted long before the aforesaid first day of S. in the aforesaid eighth year of the Reign of the said Lord the King that now is; For Plea the same R. saith, that the aforesaid M. the Administratrix the same first day of S. had divers goods and chattels which were of the said J. at the time of his death in her hands to be administered, wherewith shee might have satisfied the same R. of the Debt aforesaid (that is to say) at the aforesaid City of E. And this hee prayeth, that it bee required by the Countrey; And the aforesaid M. the Administratrix likewise; Therefore, &c.

A declaration
in Debt, upon
a mutuum, by
an Exec. and
the husband
and wife coex-
ecutrix, with
the other exec,
of the first Te-
stator.

Note and q.

S. A. B. late of B. in the County of D. Peorian, was summoned to answer to G. H. Executor of the Testament of T. C. and to T. S. and M. his wife Co-executrix of the aforesaid G. of Testament of the said T. late Executrix of the Testament of P. J. of a Plea that hee render to them forty shillings; which from them hee unjustly detaineth, &c. And whereupon the same G. T. S. and M. by W. G. their Attorney say, that whereas the aforesaid A. the twentieth day of S. in the year of our Lord, 1588. at London, in the Parish of blessed Mary of Bow, in the ward of C. had borrowed of the aforesaid P. J. in his life time, the aforesaid forty shillings, to bee paid to the same P. when he should bee thereunto required; Nevertheless the aforesaid A. although oftentimes required the aforesaid forty shillings to the aforesaid P. in his life time, or to the said T. after the death of the said P. while shee was sole, or to one G. C. and the said T. after the espousals between them, celebrated in the life time of her the said T. or to the same G. and M. after the death of the same T. while the same M. was sole, or to the same G. T. S. and M. after the espousals between the same T. and M. celebrated, hath not rendered; but the same to them, to render hee doth deny, and the same to the said G. T. S. and M. still to render hee doth deny, and unjustly detain, whereupon they say that they are the worse, and have damage, &c. ten pound; And thereof they bring suite, &c. and they shew forth here in Court as well the letters testamentary, &c.

Not damnified
pleaded to se-
veral Obligati-
ons.

Which being read, &c. Action not, because hee saith that the aforesaid plain-
tiffe at any time after the making of the Writting Obligatoory aforesaid here in
Court shewed forth, was not damnified of or for the aforesaid three several wri-
tings

things Obligatory in the aforesaid condition of the said writing Obligatory mentioned, or of or for any of them, nor by any suite of Law, Trouble, Damage, or Loss, which then were, or which thence afterwards did accrue, or came to the said D. his Executors, Administrators, or Assigns, or to any of them by reason, or the occasion of the aforesaid writings Obligatory in the condition aforesaid mentioned, or of any of them, And this, &c.

Henden.

Midd. ff. F. D. late of R. in the C. of P. R. o. c. F. D. &c. late She-
riff of the County of D. was summoned to answer M. W. widow of a Plea,
that he rendered to her fourteen pounds thirteen shillings, and four pence, which
he owes her, and unjustly detaineth, &c. And whereupon the same M. by
J. R. her Attorney saith, that whereas the late in the Court of the Lord the
King that now is, before the King himself at Westminster in the County of
Middlesex (that is to say) in the Term of St. Hillary, in the tenth year of
his reign, by Bill without the Writ of the said Lord the King, and by the
judgement of the same Court, had recovered against the aforesaid F. twelve
pounds of Debt, and also 3 shillings and four pence for her damages, which she
sustained as well by occasion of the detaining of that debt, as for her expen-
ses & costs, by her about her Suite in that behalf laid out, whereof he was com-
pelled; As by the record and process thereof in the Court of the said Lord the
King that now is, before the Lord the King himself at Westminster aforesaid,
relating it more fully appeareth; And the same M. hath not as yet obtained Ex-
ecution against the aforesaid F. of the Debt and Damages aforesaid; whereby
an Action hath accrued to the same M. to require and have of the aforesaid F.
the aforesaid fourteen pound thirteen shillings and four pence.

A Declaration
in Debt upon
a recovery had
in the Kings
Bench.
T 11 of King
Charles. c.
Brownlow.

Per the said F. although oftentimes required the aforesaid
fourteen pound thirteen shillings and four pence to the same M. hath not as yet
rendered, but the same to her hitherto, to render hee hath vowed, and still doth
vow. Whereupon she saith, that she is the true, and hath damage, to the
value of twenty pound, and thereof shee bringeth suite, &c.

Devon. ff. I D. late of M. in the County aforesaid Peoman, was summoned
to answer R. D. Esquire, of a Plea that hee render to him twenty four
pound which hee owes him, &c. unjustly detaineth, &c. And whereupon
the same R. by W. M. his Attorney saith, that whereas in the Parliament of
the Lord Edward the first late King of England, &c. at Westminster in the
County of Middlesex the fourth day of November, in the second year of his
reign holden, set forth (amongst other things) it was enacted by the Authori-
ty of the same Parliament, that every Subject of the said Lord the King,
should from thenceforth truly and justly, without fraud or guile, divide, set out
rent, and pay, all manner of their predial Tithes in their proper kind, as
they should rise and happen, in such manner, and form, as had been of right
yielded, and payed within forty years next before the setting forth of that
Statute, or of Right, or Custom, ought to have been payed; And that
no Person should from thenceforth take, or carry away any such or like
Tithes, which has been yielded or payed within the said forty years, or
of right ought to have been paid, in the place or places Tithable,
of the same, before hee had justly divided or set forth, for the Tithes thereof,
the tenth part of the same, or otherwile had agreed for the same Tithes with
the Parson, Vicar, or other owner, proprietor, or farmer of the same
Tithes, under the pain of forfeiture of treble value of the Tithes so taken
or carried away.

A Declaration
in Debt upon
the Statute of
2. of Edward
the sixth for
Tythes.
T 11 of King
Charles. c.
Moyle.

As by the Statute aforesaid (amongst other things) it is more fully ma-
nifest and appeareth. And whereas also the said R. D. the first day of D. in the
tenth year of the reign of the Lord the King that now is, and at times after-
wards

towards hitherto hath been, and still is the Proprietor of the Parsonage, two
propriate of the Church of F. in the County aforesaid, and of all, and all
manner of Tythes of grain within the Parish aforesaid, yearly growing, ri-
sing, and renewing, and the same Tythes of right ought to have and receive. And
whereas also the said I. D. after the setting forth of the Statute aforesaid (that is
to say) the aforesaid twentieth day of August in the ninth year abovesaid, was
the Occupier of thirty Acres of Land with the appurtenances within the said
Parish of F.; And the same thirty Acres of Land with the Appurtenances
from the aforesaid twentieth day of October in the ninth year abovesaid, hi-
therto hath held and occupied; And which said thirty Acres of Land with the
Appurtenances, the Tythes of the grain of, and out of the same growing, re-
newing, happening, and arising, within forty years next before the aforesaid
said fourth day of November, in the abovesaid second year of the reign of the
said late King Edward the sixth, of right were peiled and payable; And
the aforesaid I. so as aforesaid, being the Occupier of the aforesaid thirty Ac-
res of Land with the Appurtenances by the time aforesaid, the same I. after-
wards (that is to say) the first day of May in the tenth year of the reign of the
said Lord the King that now is, did sow twenty Acres of Land parcel of the a-
foresaid thirty Acres of Land with grain (that is to say) six acres thereof
with wheat, four Acres thereof with Rye; four Acres thereof with Barley,
and six Acres thereof residue with Dares. And afterwards (that is to say)
the thirtieth day of September in the tenth year abovesaid, the Corn of the
grain aforesaid, in the same twenty Acres of Land with the Appurtenances
being, did mow, and cut, or caused to be cut. And the Corn of the same
grain so mowed and cut, did make in sheaves, and had, and perceived forty
Cart loades of sheaves of the grain (that is to say) of the wheat, Rye, Barley,
and Dares aforesaid thereof, and the same Corn so made in sheaves, did put
into so chs.

The Tythes of which said sheaves of Corn, and grain, of the grain aforesaid,
so as aforesaid made and put into sheaves did belong, and of right had
ought to have been peiled, and paid to the said R. D. the Proprietor of the
Tythes aforesaid. Nevertheless, the aforesaid I. being a subject of the said
Lord the King that now is, and the Premises well knowing, the Statute
aforesaid in no wise considering, nor the pain in the same contained in any
manner fearing, after the setting forth of the same Statute, and after the
mowing and cutting of the grain aforesaid, and the making thereof in sheaves,
and also the putting of the same in sheaves in form aforesaid (that is to say)
the tenth day of September in the tenth year abovesaid, at the aforesaid Pa-
rish of F. aforesaid, the same grain from the aforesaid places where the same did
grow, and where the same was put into sheaves, and where that grain ought
to have been Tythed, did take and carry away (the tenth part of the same grain,
or of any parcel thereof from the nine parts thereof residue before, by the said I.
not debited, separated, or set out, nor any agreement, for the Tythes of the
same grain by the said I. with the same R. made or had, contrary to the form
and effect of the Statute aforesaid. And the same R. in fact saith, that the
tenth part of the grain aforesaid, so as aforesaid, not divided, separated, or
set out from the nine parts thereof residue, so by the said I. in manner aforesaid,
taken and carried away at the aforesaid time, of the taking and carrying a-
way of the same, was worth eight pounds of lawful money of England, where-
by an Action did accrue to the said R. D. to require and take of the aforesaid
I. D. the aforesaid twenty four pounds (that is to say) the treble value of the
Tythes of the grain aforesaid, so as aforesaid, for the nine parts thereof resi-
due, not divided, separated, or set out, and by the same I. in form aforesaid, ta-
ken and carried away. Nevertheless the aforesaid I. D. although oftentimes
required the aforesaid twenty four pounds to the same R. hath not as yet re-
quired. But the same, &c. damage twenty pound. And thereof he bringeth suite,
&c.

S. J. L. late of C. in the County aforesaid H. o. c. J. L. &c. was summoned to answer R. R. of a Plea that hee render to him one hundred pound, which hee oweth him, and unjustly detaineth, &c. And whereupon the same R. by F. G. his Attorneys saith, and counts upon an Obligation bearing date the three and twentieth day of July in the tenth year, at the City of E. damage twenty pound, &c. And hee sheweth forth, &c.

A declaration in Debt, upon an Obligation, with condition to perform an Arbitrament. H. 11. of King Charles c. Moyle.

And the aforesaid I. by P. M. his Attorneys comes, &c. And praiseth the hearing of the writing aforesaid, and it is read to him, &c. hee praiseth also the hearing of the condition of the same writing, And it is read to him in these words, The Condition, &c. which being read and heard, the same I. L. saith, that the aforesaid R. Action not, &c. because hee saith that the aforesaid I. D. and T. T. the Arbitrators aforesaid in the Condition aforesaid above named, after the making of the writing aforesaid, and before the aforesaid thirtieth day of July, in the Condition aforesaid above specified (that is to say) the nine and twentieth day of July in the year of our Lord, 1634. at the aforesaid City of E. having taken upon them the burden of the Arbitration, and Judgement aforesaid of and upon the Premises in the Condition aforesaid above mentioned, by their certain writing of Award under their hands and seals, to either of the said parties ready to bee delivered, did award that the aforesaid R. R. for his unjust suites which hee from time to time had commenced and persecuted against the aforesaid T. B. N. C. and the same I. L. should pay to the same T. B. N. C. and I. L. the summe of forty eight pound, at or upon the twenty eighth day of S. then next following at or in the then house of S. L. Knight, in C. Item the Arbitrators aforesaid did award that the aforesaid R. R. at or before the aforesaid twenty eighth day of S. should deliver and cancel one other writing Obligation, in which the aforesaid N. C. before that time had been bound to the said R. R. in ten pound, bearing date the last day of O. in the year of our Lord, 1644. And for that that it then appeared to the same Arbitrators, that the condition of the same had been performed. Item, The Arbitrators aforesaid did award and order, that whereas the said T. B. N. C. and I. L. had obtained a grant from the Patentess of the said Lord the King that note is of the emolument commodity, and forfeiture of the Recognizance of the aforesaid R. R. and his sureties forfeited for his not appearance at the then last Lent Assizes being in all eighty pound. The said T. B. N. C. and I. L. for the considerations aforesaid, should peele up to the aforesaid R. R. all their right in the same, and should discharge the same R. R. from the forfeiture of the Recognizance aforesaid, and should pay the costes to which the procuring of the same afterwards should amount unto, And lastly the Arbitrators aforesaid did order and award that or before the twenty eighth day of S. they should seal and deliver general Releases each to other. And in the mean while all suites and controversies betwixt them should cease, as by the aforesaid writing of award under the hands and seals of the said I. D. and T. T. here in Court shewed forth, it more fully appeareth; And the same I. saith, that he and the said T. B. and N. C. and every of them from time to time, and at all times after the making of the award aforesaid, have well and faithfully proffered, suffered, performed, fulfilled, and kept all, and singular the things in the award aforesaid contained, on the part of him the said I. L. and of the said T. B. and N. C. to be performed, fulfilled, and kept, according to the form and effect of the condition aforesaid. And this hee is ready to verifie, whereupon hee praiseth Judgement, &c.

The Award. 1

Performed.

Sergeant Ashley.

And the aforesaid R. saith, that hee by any things before alledged, ought not to be barred from having his Action aforesaid, because hee saith that well and true it is that the aforesaid I. D. and T. T. in the condition aforesaid above named by their writing of award aforesaid (amongst other things) did order

Reply. The Plaintiff confesses the Award.

¶ ¶ ¶

and

And saies.

They did not
discharge him
the said Plain-
tiffe of &c.

Rejoynder that
one of them
did discharge,
&c.

The Plaintiffe
demurres with
cause.

1

2

3

13

Joynder in de-
mur.

A Plea in bar
to a Debt up-
on an Obliga-
tion by an Ex-
ec. for that the
Testament was
litigious.

and toward that the said T. B. N. and I. for the consideration in the said writing of award aforesaid mentioned, should yield up all their right in the Recognisance aforesaid, in the said writing of award aforesaid specified, and should discharge him the said R. of the forfeiture of the same Recognisance, and should pay the costes to which the procuring of the same should amount unto, as the said T. B. N. and I. have abovesaid alleged; but the same R. further saith, that the aforesaid T. B. N. and I. or some of them although after the making of the award aforesaid, and before the day of the obtaining of the Writ of Right of him the said R. (that is to say) the thirtieth day of June in the year of our Lord, 1634. abovesaid by the same R. at the aforesaid City of E. the same required, did not discharge, nor either of them did discharge him the said R. of the forfeiture of the Recognisance aforesaid. As hee or one of them ought to have discharged him the said R. thereof, according to the form and effect of the award aforesaid; And this hee is ready to verifie, whereupon hee prayeth Judgement and his Debt aforesaid, together with his damages, by occasion of the detaining of that Debt to him to be adjudged, &c.

Henden.

And the aforesaid I. L. saith, that the said I. did discharge the aforesaid R. of the forfeiture of the Recognisance aforesaid, As the same I. and the aforesaid T. B. and N. or one of them ought to have discharged the aforesaid R. thereof, according to the form and effect of the award aforesaid; And of this he putteth him self upon the Country, &c.

Thynne.

And the aforesaid R. saith that the aforesaid Plea of the said I. L. abovesaid pleaded, is not sufficient in Law to barre him the said R. from having his Action aforesaid against the same I. And that hee to the same Plea in manner and form aforesaid pleaded hath no need, nor by the Law of the Land is bound to answer. And for cause of demurre in Law, hee sheweth according to the form of the Statute the causes following (that is to say) for that, that the said I. doth not sufficiently answer to the Plea of him the said R. abovesaid in replying pleaded, neither confesseth, nor abovesaid the matter in that Plea alleged, nor sheweth how hee did discharge the Recognisance aforesaid in the said award abovesaid in pleading mentioned; And this hee is ready to verifie, whereupon hee prayeth Judgement and his Debt aforesaid together with his damages by occasion of the detaining of the same Debt to him to be adjudged, &c.

Henden.

And the aforesaid I. L. in as much as hee sufficient matter to barre him the said R. from having his action aforesaid against him, hath abovesaid alleged, which said matter the aforesaid R. doth not deny, nor therunto in any wise answer, but altogether refuseth to admit the same Abjurement, the same I. as hee afore prayeth Judgement; and that the aforesaid R. bee barred from having his action aforesaid against him, &c. And because the Justices here will addre themselves of, and upon the Premises befoze, &c.

Egrement Thynne.

Which being read and heard, the same W by protesting that the Testament and last will aforesaid here now in Court shewed saith, are not sufficient to maintain the aforesaid Action of the said E. and R. for Plea, saith that true and true it is, that the aforesaid John Lamb Doctor of Law by his definitive sentence, and final decree aforesaid did declare, and decree the aforesaid Testament and last will, and also the codicill nuncupative aforesaid to have been the Testament and last will of the said I, the Testator in the same named; And also by the same did approve, confirm, and promote the probate, approbation, and

In execution of the same Testament, and also the Administration of the Goods, Rights, and Credits of the same T in that behalf, had and made, and to all the effect of Laws vis. ratify and approve. As by the said Sentence, and final Decree here in Court shewed forth, it more fully appareth. But the same W. W. sheweth saith, that after the aforesaid Sentence and final Decree in form aforesaid, given and declared, and within fifteen daies next after the said final decree in form aforesaid, pronounced and made (that is to say) the twenty fourth day of F. in the pent of our Lord, 1534. aforesaid, the aforesaid L. W. d. B. against whom the sentence aforesaid was given, and the final Decree made at M. aforesaid, from the aforesaid Sentence and final Decree in form aforesaid made, pronounced, and declared, as unjust, void, and not Righteous in the most renowned Prince in Christ, and our Lord, the Lord Charles by the grace of God of B. S. F. and I, King, Defender of the Faith, Chancellor of the same fostering Court, and to him in his Chancery, rightly, and lawfully in writing hath appealed, and made an appeal, which said appeal, the said J. with all celerity and effect, the hath prosecuted, and still doth prosecute. And the same appeal still depends undetermined, and instructed. And this he is ready to beresite, whereupon he prates judgement, whether the aforesaid A. and B. ought to have their Action aforesaid against him, &c.

Appeared.

Appeal.

Depending.

Henden,

Suffex H. T. T. late of T. in the County of K. Peconia, Coten and heir of H. Gentleman late called H. A. &c. was summoned to answer T. B. of a Plea, that he render to him four hundred pound, which he oweth him, and unjustly detaineth, &c. And whereupon the same T. by A. T. his Attorney saith, that whereas the aforesaid H. in his life time, whose Coten, and Heir the same T. is, (that is to say) the Sonne of the body of the aforesaid H. such a day and year at C. by his certain writing Obligatory, had granted himself to be holden to the same Plaintiffe in the aforesaid four hundred pound; To be paid to the same Plaintiffe when her had been therunto required. And to the same payment well and faithfully to be made, the aforesaid H. had bound himself, and his Heirs, by the same writing.

A Declaration in Debt against a Coten, and Heir, who confesses the Action. T 13 of King Charles. Roll. 1900. c. Moyle.

Note.

Reberthelesse, The aforesaid H. in his life time, and the said T. the Cozen and Heir of the same H. after the death of the same H. although oftentimes required the aforesaid four hundred pound to the same Plaintiffe, have not rendered, but the same to him to render they have deuyed. And the aforesaid T. the Cozen and Heir of the same H. the same to him still to render doth denye, whereupon he saith, &c. Damage ten pound, &c. And he sheweth forth,

And the aforesaid T. by E. S. his Attorney comes, and defends the force, &c. sheweth when, &c. And saies that he cannot deny the Action of the said Plaintiff, nor but that the writing aforesaid is the deed of the aforesaid H. nor but that he the same Defendant is the Cozen, and Heir of the said H. nor but that he oweth to the said Plaintiffe the aforesaid four hundred pound, in manner as the said Plaintiffe above against him hath declared.

Reberthelesse, the same Defendant saies, that the aforesaid H. in his life time was seized in his demesne as of free of, and in one messuage, two Barns, two Gardens, &c. with the Appurtenances in B. in the said County of K. and the same H. so being thereof seized, the said H. afterwards (that is to say) such a day, and year at B. aforesaid, did demise to one V. Q. the Elements aforesaid with the Appurtenances. To have to the same V. and his Assignes, from the feast of St. Michael the Arch-Angel then next following, until the full end and term of ninety nine years from thence next ensuing. To be compleat and ended. By virtue of which demise the aforesaid V. in the month of the aforesaid feast of St. Michael the Arch-Angel, in the second year

The defendant pleads nothing by descent, besides the reversion of a Tenement, then in demise for a term of years. The Action confessed in part. H. the father seized in fee. Demise. For ninety nine years.

J f f a

above.

Entry of the
lessee.

abovesaid, into the Tenements aforesaid, to him as aforesaid above demised, with the Appurtenances, did enter, and was, and still is thereof possessed. And he being so thereof possessed, The said H. afterwards at B. aforesaid dyed.

Discent of the
reversion to
the Defendant
as Cozen and
Heir, &c.

After whose Death, the reversion of the Tenements aforesaid with the Appurtenances in manner aforesaid, so as abovesaid demised, did descend to the same Defendant, as Cozen and Heir of the aforesaid H. whereby the same Defendant, was and still is, seized of the reversion of the Tenements, aforesaid, so as aforesaid demised with the Appurtenances in his Demise as of Fee. And the same Defendant further saies, that he hath not any Lands or Tenements by hereditary descent from the said H. his Uncle in Fee simple, nor had he day of the obtaining of the Original Writ of the said Plaintiff, nor at any time after, besides the reversion of the Tenements aforesaid, with the Appurtenances above as aforesaid demised with the Appurtenances. And this he is ready to verifie, whereupon hee prays Judgement, together the said Defendant as Cozen and Heir of the aforesaid H. besides in the reversion of the Tenements aforesaid with the Appurtenances, when it shall happen by vertue of the writing aforesaid ought to be charged, &c.

No assets by
descent, besides
&c.

When it shall
happen.

Reply.

And the said Plaintiffe in as much as the aforesaid Defendant doth not denie the aforesaid Action of the said Plaintiffe, nor but that the writing aforesaid, is the deed of the said H. nor but that the same Defendant owes to the said Plaintiffe the aforesaid four hundred pound, in manner as the same Plaintiffe above against him hath declared, prays Judgement, and his Debt aforesaid, together with his Damages, by reason of the detaining of that Debt of the aforesaid reversion of the Tenements, aforesaid with the Appurtenances when it shall happen, to be leibed to him to be adjudged, &c.

Judgement that
the Plaintiffe
have the re-
version of the
Tenements
until. &c.
Mercy.

Therefore it is considered, that the aforesaid Plaintiffe recover against the said Defendant, his debt aforesaid, and his damages by reason of the detaining of that Debt to, &c. with his assent, by the Court here adjudged of the aforesaid reversion of the Tenements aforesaid, above as aforesaid demised with the Appurtenances, when it shall happen to be leibed. And the aforesaid Defendant in mercy, &c. But because it is not known how much the aforesaid reversion of the Tenements aforesaid, with the Appurtenances is worth by the year in all issues, above the reprises, &c.

A writ to en-
quire of the
value of the
reversion when
&c. awarded.

It is commanded, the Sheriffe of the aforesaid County of Kent, that by the Oath of honest and lawful men of his Bailiwick, hee diligently inquire how much the aforesaid reversion of the Tenements aforesaid with the Appurtenances, is worth by the year in all issues above the reprises. And the same inquisition by him thereof diligently being made, the same reversion of the Tenements aforesaid, with the Appurtenances according to the true value of the same, to the said Plaintiffe, when it shall happen, hee deliver to hold to the same Plaintiffe, until hee shall thereof have leibed the debt and damages aforesaid, and in what manner, &c. let the Sheriffe of the said County of Kent, make to appear here in eight daies of St. M. &c.

A Declaration
in Debt, by
bill against an
Attorney of
the Bench, up-
on an Obliga-
tion with con-
dition for the
enjoying of
Lands dischar-
ged of rents.

H. the twelfth of King Charles. The Plaintiffe declares upon a writing Obligatory for ten pound bearing date, at, &c. The Defendant prays Oyer of the writing, and of the condition of the same which follows in these words.

The condition of this Obligation is such, that whereas the above named H. V. now holdeth by vertue of certain Articles of Covenant, bearing date under the hand and seal of the said I. W. the fifth day of April in the ninth year of the Kings Majesty, that now is, &c. one messuage and tenement situate

estate, lying and being within the above named Parish of C. called T. and one Justment, Agistment, called or known by the several names of B. and B. situate in the Parish of T. in the said County of D. for all the residue of the Term of eight years, if the said I. VV. shall so long live, which did commence and begin from the date of the said Articles, and from thenceforth to be completed and ended; And whereas I. F. and others who have now the Reversion of the said Premises or Fee, do claim and pretend that divers summes of money are in arrear unto them for the Rent of the Premises, and do give out, and threaten to distraine upon the same Premises for the same; Now therefore if the said H. V. his Executors and Administrators shall from time to time, and at all times hereafter during the time aforesaid, peaceably and quietly have and enjoy the said Tenement and Premises with the Appurtenances, absolute, freed and discharged; or otherwise upon every reasonable request, unto him the said I. W. his Executors or Administrators in that behalf made well and sufficiently sated, and kept harmless, as well against the said I. F. and all others who are or shall be during the Terme aforesaid, seized of the Reversion of the said Premises in Fee, for and concerning all manner of Rents which are pretended to be due heretofore, due and payable, and which ought to be due and payable, or payed out of the said Premises at any time or times hereafter, during the Term aforesaid without fraud, or further delay; That then this present Obligation to be void, and of none effect, otherwise to remain in full power, strength, effect, and vertue; Which being read and heard, the same I. F. saith, that the aforesaid H. Action not, because he saith that the aforesaid H. V. from the time of the making of the Writing aforesaid hitherto hath peaceably and quietly had, held, and enjoyed the Tenements and Premises in the condition aforesaid above specified; with the Appurtenances absolute, freed, and discharged, or otherwise upon reasonable request to the aforesaid I. W. in that behalf made, well and sufficiently, sated and kept harmless, against the aforesaid I. F. in the condition aforesaid above named, and all others, who are, or during the Terme aforesaid, shall be seized of the Reversion of the aforesaid Premises in Fee, for and concerning all, and all manner of Rents, which before that time were to be due and payable; And which ought to be due and payable, or to be payed out of and from the Premises aforesaid, at any time or times thereafter, during the Term aforesaid, according to the form and effect of the condition aforesaid; And this he is ready to verifie, whereupon he prayeth Judgement whether the aforesaid H. ought to have his Action aforesaid against him, &c.

Henden,

And the aforesaid H. saith, that hee by any things before alledged, ought not to be barred from having his Action aforesaid, because hee saith, that before the making of the Writing Obligatory aforesaid (that is to say) such a day and year one H. F. Esq. was seized of the Tenements aforesaid, with the appurtenances in the condition aforesaid above specified, in his demesne as of Fee; And so being thereof seized, the same H. afterwards (that is to say) such a day and year at C. aforesaid, by his certain Indenture with his seal sealed between him the said H. of the one part, and one W. W. and E. his wife, and the aforesaid I. W. in the condition aforesaid above named of the other part made, The date whereof is the same day and year, did demise to the aforesaid W. W. and E. his wife, and I. the Tenements aforesaid with the appurtenances; To have and to hold to the same W. W. for and during the Term of his natural life, the remainder thereof after the deceases of the said W. and E. to the aforesaid I. W. for and during the Term of his natural life, hee the said W. VV. during his life, and after the deceases of the same VV. and E. hee the said I. during his life yielding therefore yearly to the aforesaid H. and his Assignes, the yearly rent of forty shillings of lawful money of England, by equal portions

G g

See good Pleasings touching several Seifins, Deaths and Descents.

For eight years if &c. And of the claim of Areres of Rent. Condition for the quiet injoying, &c.

And saving Harmless.

Performed.

Reply.

Seisin in Fee

D'mise for life with remainder over, &c.

Yielding yearly forty shillings Rent.

Quar.

At four Feasts
usual.

And two fat
Capons, or, &c.
Seisin of the
Lesse.

And of him in
the Reversion.

Who dyed.
Discent of the
Reversion to
three Co heirs
being married.
Their Seisin of
the Reversion.

One of the Co-
heirs and her
Husband dye,
seized, &c.
Having issue
W. B. Son, &c.
Discent of a
third part of
the Reversion
to W.

His Seisin
thereof.
Another of the
Co heirs and
her Husband
dye, seized, &c.
Discent of a
third part of
the Reversion
to I. F. son, &c.
His Seisin
thereof.

The third Co-
heir and her
Husband dye
seized, &c.
Discent of a 3
part of the Re-
version to 3 co-
heirs.

Copercenary
pleaded.

M one of the
co-heirs mar-
ries one I. R.
Their seisin of
the 3 part of a
third part.
I. and M. dye
of, &c. seized.
Discent thereof
to W. R. son,
&c.

His seisin
thereof.
M another of
the co-heirs
marries one
R. C.

quarterly at the feasts of St. M. the Arch-Angel, the Birth of our Lord, the An-
nunciation of the blessed Virgin Mary, and the Nativity of St. John the
Baptist, in every year, during the Termes aforesaid; And also peelding and
paying therfore yearly two fat Capons, or two shillings and eight pence,
in the name of the same at the election of the aforesaid H. his Heirs and As-
signes at the Feast of the Birth of our Lord, in every year, during the febrer
Termes aforesaid.

By vertue of which Demise, the same W. was of the Tenements aforesaid
said with the appurtenances seized in his demesne, as of free-hold for the
Term of his life, the remainder thereof as it is abode limited; And the
same VV. being to thereof seized, and the aforesaid H. of the reversion of the
same Tenements, with the appurtenances being seized in his demesne as of
free and Right: The same H. afterwards (that is to say) the first day of May,
&c. at C. aforesaid dyed, after whose death the aforesaid Reversion of the Tenements
aforesaid, with the appurtenances did descend to one M. then the
wife of VV. B. Esq; and Elizabeth then the wife of C. F. Esq; M. then the
wife of R. as Sisters and next Heirs of him the said H. whereby the same
VV. B. and M. his wife C. F. and Elizabeth his wife, and R. C. and M. his
wife were seized of the Reversion aforesaid, with the appurtenances (that is to
say) the same VV. C. and R. as of free-hold in Right of the said M. E. and
M. And the same M. E. and M. as of free and Right; And they being so there-
of respectively seized; The aforesaid VV. B. and M. his wife afterwards (that
is to say) such a day and year at C. aforesaid dyed of such their estate so there-
of seized, having issue of their bodies VV. B. Son and Heir of the said M.
After the death of which said VV. B. the Father and M. one third part of the
Reversion aforesaid did descend to the same W. as Son and Heir of the same
M. whereby the same W. the Sonne, was of the third part of the same
Reversion seized as of free and Right, And hee the same VV. being so there-
of seized; And the aforesaid C. and E. of the other third part of the Reversion
aforesaid, with the appurtenances, being as aforesaid seized, The same C.
and E. afterwards (that is to say) the same day and year at C. aforesaid
dyed, being of such their estate so thereof seized; After whose death the third
part of the Reversion aforesaid did descend to one I. F. as Son and Heir of
the said E. whereby the same I. was of the same third part seized, as of free
and Right; and then the said VV. B. the Son and I. F. being so of the aforesaid
third parts of the Reversion aforesaid, with the appurtenances as aforesaid, re-
spectively seized; And the aforesaid R. E. and M. being of the other third part
of the same Reversion, so as aforesaid seized. The same R. and M. after-
wards (that is to say) such a day and year at C. aforesaid dyed, being of such
their estate so thereof seized; After whose death the same third part did descend
to one M. M. and E. as Daughters and Co-heirs of the aforesaid M. C. where-
by the same M. M. and E. were of that third part seized as of free and Right in
copercenary; And they being so thereof seized the aforesaid M. afterwards
(that is to say) such a day and year did take to her Husband one I. R. where-
by the same I. and M. were of one third part of the said third part of the Reversion
aforesaid seized (that is to say) the same I. as of free-hold in the Right of
his Wife; And the same M. as of free and Right; And the same I. R. and M.
being so thereof seized; And the aforesaid M. and E. of the aforesaid other two
parts of the Reversion aforesaid with the Appurtenances, being as aforesaid
seized; the aforesaid I. and M. afterwards (that is to say) such a day and year
at C. aforesaid dyed, of such their estate thereof seized; After whose death
that third part did descend to W. R. Son and Heir of the said M. whereby the
same W. was, and still is thereof seized, as of free and Right; and the same
VV. being so of the aforesaid third part with the Appurtenances seized; And
the aforesaid M. and E. being of the aforesaid two parts in form aforesaid
seized; The same M. afterwards (that is to say) such a day and year abode

said did take to husband one R. C. whereby the same R. and M. were, and still are thereof seized (that is to say) the same R. as of Free-hold in Right of the same M. and the same M. as of Fee, and Right. And the same R. and M. being so thereof seized. And the aforesaid VV. R. and the said E. being of the aforesaid two parts of the said third part of the reversion aforesaid, in form aforesaid seized, the aforesaid E. afterwards (that is to say) such a day and year at C. aforesaid did take to husband one T. C. whereby the same T. and E. were seized of the other third part of the said third part of the reversion aforesaid, with the Appurtenances (that is to say) the same T. as of French tenement in right of the same E. And the same E. as of Fee and right, And the same T. and E. being so thereof seized, The same E. afterwards (that is to say) such a day and year at A. aforesaid dyed, of such her estate so thereof seized having issue of her body by the aforesaid T. begotten T. C. whereby the same T. the Son was, and still is Seised of the aforesaid third part of the said third part of the reversion aforesaid with the Appurtenances as of Fee and right.

And they the said J. B. I. F. W. R. R. C. and M. his wife, and T. C. the Son being so of the reversion of the Tenements aforesaid, with the appurtenances as aforesaid seized, the aforesaid W. W. and E. afterwards (that is to say) such a day and year at C. aforesaid dyed. By the death of which said W. and E. the Tenements aforesaid with the Appurtenances, did remain to the aforesaid J. W. in the condition aforesaid. abode named for the term of his life, by heretofore of the demise aforesaid; Whereby the same J. was and still is thereof seized in his demesne as of Freehold. And the same H. further saith, that after the making of the said writing Obligatory (that is to say) such a day and year one T. H. and R. C. Bailiffs of the aforesaid J. F. W. B. R. R. C. and M. his wife, being seized of the reversion of the Tenements in the condition aforesaid abovementioned, in Fee, in form aforesaid, into the same Tenements with the Appurtenances did enter, and then and there took the Cattle (that is to say) nine Cowses and seven Horses, of him the said H. in the name of a distress for twenty five pound, being then not paid to the same J. F. W. B. W. R. and M. his wife, and T. C. of the rent of the Tenements aforesaid for twelve years, and one half year ended at the feast of St. M. the Arch-angel then last past.

Whereupon the aforesaid H. for the abiding of Suite, and further Damage and losse, which to him by reason thereof might happen afterwards (that is to say) such a day and year abovesaid, at C. aforesaid, became bounden to the aforesaid W. by his writing obligatory, bearing date the same day and year in the summe of fifty pound, for the payment of such Rents as then were in arreare, and due to the said W. B. and other Lords of the Premises aforesaid, or otherwise to compound with the same for all such Rents as should appere to be due to the same, or either of them issuing out of the aforesaid Premises, at or before the first day of February next following. And that the same H. afterwards (that is to say) such a day and year at C. aforesaid did require the aforesaid J. W. to free and discharge, or otherwise well and sufficiently to save and keep harmless the aforesaid Tenements with the Appurtenances against the said J. F. W. and all other the said Lords of the Premises aforesaid, then being seized of the reversion of the Tenements aforesaid, of and from the aforesaid Rents, so as aforesaid to them to be due and payable, and which ought to be due and payable, or to be repaid. And that the aforesaid J. although thereunto required, did not free, discharge, or otherwise save and keep harmless the aforesaid Tenements with the Appurtenances against the aforesaid J. and W. and the said other Lords of the Premises for, and concerning the aforesaid Rents, so as aforesaid to them then being due, and to be payable. And that the same H. upon his writing Obligatory aforesaid, afterwards (that is to say)

Their seisin, &c.

E The third
Cohair marries
one T. C.
Their seisin,
&c.

E dyes of, &c.
seized.
Having issue a
Son, T. C.
His seisin of
the third part
of a third part.
W. and E.
dye.

By whose
death the Te-
nements re-
mained to J. W.
&c
His seisin ther-
of.
Distress made
by the Bai-
liffes of them
in the rever-
sion for the
repayments.

For twelve
years & dyed.

Whereupon H
for the avoid-
ing of Suite,
&c. became
bound to the
Plaintiffe in
the Obligation
For the pay-
ment of the
Rents, &c.
The request of
H. to save
harmlesse, &c.

And I did not
save harmlesse,
&c.

And that H,
upon the bond
was constrain-
ed to pay to,
&c. twenty
five pound for
the said rent.
And so the said
J. could not
quietly enjoy
the Tenements
&c.

An averment
of the life of
I. W.

say) such a day and year at C. aforesaid, was constrained and compelled to pay and satisfy to the aforesaid I. and W. the aforesaid twenty five pounds for the Kent aforesaid. And so the same I. saith, that hee could not peaceably and quietly have, hold, and enjoy the Tenements aforesaid, with the Appurtenances, absolute, freed, discharged, or otherwise well and sufficiently saved, and kept harmless against the aforesaid I. F. and all others, which during the aforesaid Term should be seized of the reversion thereof in fee, fee, and concerning all and all manner of Kents formerly pretended to be due and payable, and which ought to be due and payable, or to be paid of, and out of the aforesaid premises, in manner and form as the aforesaid F. hath above alleged. And this hee is ready to verify whereupon he prays Judgement, and his Debt aforesaid, together with his damages, by occasion of the detaining of that Debt to him to be adjudged, &c. With this, that the same I. will aver that the aforesaid I. W. in the condition aforesaid above named, is still alive, and to full life (that is to say) at C. aforesaid, &c.

Jermin Serjeant.

A plea by an
Heir in Debt
in which the
Debt is con-
fessed, &c. that
he hath no o-
ther Lands or
Tenements
besides, &c. to
satisfy.
Nothing by
discent.
Besides, &c.

The Defendant by his Attorney comes and defends the force and injury taken, &c. And saith that hee cannot deny the aforesaid Action of the said Plaintiff, nor but that the writing aforesaid is the deed of the said I. his father, nor but that hee detains from the said Plaintiff the aforesaid three hundred pound, in manner as the same Plaintiff above against him hath declared. But the same Defendant saith, that hee hath not any Lands or Tenements by Hereditary descent from the said T. his father in fee-simple, nor had the day of the obtaining of the Original writ of the said Plaintiff, nor at any time after, besides one messuage, one garden, one barn, one dovecote, one hundred twenty and two Acres of Land, &c. with the Appurtenances in K. in the County aforesaid, of the yearly Value of fifteen pound. And this hee is ready to verify, whereupon hee prays Judgement, whether hee as Son and Heir of the said T. with the Debt aforesaid, besides in the Tenements aforesaid with the Appurtenances; by virtue of the writing aforesaid, ought to be charged, &c.

Reple. Proest
the value.

And the said Plaintiff, by protesting that the aforesaid one messuage, one Garden, one Barn &c. with the Appurtenances, are not of the yearly value of fifteen pound, as the aforesaid Defendant hath above alleged, for to have speedier Execution of the debt aforesaid, saith, that the aforesaid Defendant the day of the obtaining of the Original writ of the same Plaintiff (that is to say) such a day and year had diverse other Lands and Tenements, by hereditary descent from the said T. D. his father, in fee-simple above the aforesaid Tenements in K. aforesaid, above by the said E. acknowledged, to be descended from the aforesaid T. his father whereunto hee might have satisfied the same Plaintiff of the debt aforesaid (that is to say) at K. aforesaid, in the County aforesaid.

Assers by dis-
cent besides,
&c.

Issue.

And this hee prays, that it be enquired by the Countrey; And the aforesaid Defendant likewise. Wherefore as to the Tryall of the same Issue, it is commanded the Sheriffe, that hee cause to come here from the day of the holy Trinity in three weeks, twelve, &c. By whom, &c. And who neither, &c. To Recognize, &c. Because as well, &c.

Judgement re-
spected until
&c.

And in the mean while, let Judgement be respited upon the continuance aforesaid, in form aforesaid, made untill the Issue aforesaid between the said parties above joyned be determined, &c.

N. O.

N. O. counts upon an Obligation against W. H. who appeared and demanded the hearing of the writing, which bare date the seventh day of May, Ca. R. And it is read to him, &c. he demands also the hearing of the condition of the same writing. And it is read to him in these words.

The Condition of this Obligation is such, that if the aboves bounden W. H. his Executors, and Administrators, and every of them do in all things stand to, abide, perform, fulfil, and keep the award, arbitrament, order, rule, determination, and judgement of I. H. the elder, and W. H. of P. Arbitrators indifferently elected and chosen between the aboves bounden W. H. of the one part, and the aboves named N. O. of the other part, to arbitrate, award, judge, order, and determine, as well of for and upon a certain Ship lately called the P. and now called the D. of O. as of all reckonings and accompts now in variance between the said parties before, and since her last voyage at Sea, whereof the said N. was Master under God, and Part-owner, which on the part of the said W. H. are to be performed, so that the same award, arbitrament, order, rule, and judgement, made by the said Arbitrators of and upon the Premises be by them made, and given up in writing under their hands and seals unto the said parties, or either of them, at or before the tenth day of this instant month of March. And if the Arbitrators shall not make and deliver up their award between the said parties at or before the said tenth day of this instant month; That then if the aboves bounden W. H. his Executors, and Administrators, and every of them do, and shall stand to, and abide, perform, fulfil, and keep the award, arbitrament, order, rule, determination and judgement of T. T. Merchant sole Umpire, indifferently elected and chosen between the said parties to arbitrate, award, judge, order and determine of and concerning the Premises aforesaid, which on the part of the same VV. H. are to be performed, so as the same award made by the said T. T. be given up in writing under his hand and seal, unto the said parties, or either of them at or before the thirteenth day of this instant month of M. That then this Obligation to be void, and of none effect, or else to remain, abide, and be in full power, strength, effect, and vertue; which being read and heard, the same W. H. saith that Action not, because he saith that the aforesaid I. H. and W. H. the Arbitrators aforesaid, after the making of the writing aforesaid, and at or before the aforesaid tenth day of M. in the Condition aforesaid above specified, did make no award, order, rule, and judgement in writing, under the hands and seals of the said Arbitrators signed and sealed of and upon the Premises, in the condition aforesaid above specified, according to the form and effect of the condition aforesaid, And that the aforesaid T. T. Umpire after the aforesaid tenth day of M. did make no award, order, rule, or judgement, upon the Premises aforesaid in the said condition above also likewise specified, according to the form and effect of the same Condition; And this he is ready to certify, whereupon he praiseth Judgement whether, &c.

The Plaintiffe, not be barred, because he saith that the aforesaid I. H. and W. H. the Arbitrators aforesaid, after the making of the writing aforesaid, and at the said tenth day of M. in the condition aforesaid above specified (that is to say) the same tenth day of M. in the seventh year abovesaid, at the aforesaid City of E. having taken upon them the burden of the award, and Judgement of and upon the Premises in the same condition above specified, by their certain writing of award in writing under the hands and seals of the said Arbitrators, made and delivered to the same parties; The other part whereof with the seals of the said Arbitrators signed; the same N. here in Court, sheweth forth; The date whereof is the same day and year, did award, order, and judge between the same N. and the aforesaid W. H. of and upon the Premises aforesaid in manner following (that is to say) Imprimis, &c. and to recite all the Award; As by the same writing of award it more fully appeareth.

And the same N. by protesting that the aforesaid W. hath not performed or

In a Declaration upon an Obligation for the performance of an award, the Defendant praiseth the hearing of the condition, and saith, that no arbitrament was made, and the Plaintiffe replies and expresses the arbitrament awarded, and thereupon issue is joyned. M the eighth of King Charles Rol. 1690.

Umpire;

No Award made by the Arbitrators.

Or Umpire.

Reply.

The Award.

The breach thereof assigned.

fulfilled any thing in the award aforesaid above specified on his part to be fulfilled and performed according to the form and effect of the said award; And the same N. saith, that the aforesaid VV. did not pay to the same N. the aforesaid seventy and two pounds seventeen shillings and two pence upon the aforesaid seventeenth day of M. in the award aforesaid above specified, according to the form and effect of the same writing of award; And this he is ready to satisfy, whereupon he prayeth Judgement and his Debt aforesaid together with his damages, by occasion of the detaining of the same Debt to him to be adjudged, &c.

Rejoinder.
No such Award.

Issue thereof.

Nisi prius awarded.

Return of the Postea.

Tales.

Verdict.

And Judgement for the Plaintiff.
Merely.

Errors assigned.

And the aforesaid VV. H. as before, saith that the aforesaid I. and VV. Arbitrators, after the making of the writing aforesaid, and at or before the aforesaid tenth day of M. in the condition aforesaid above specified, did not make any such Award, Order, or Judgement, between him the said VV. and the aforesaid N. of, and upon the Premises as the aforesaid N. hath above alleged. And of this he puts himself upon the Country; And the aforesaid N. his wife; Therefore the Sheriffe is commanded that he cause to come here in eight daies of the Purification of the blessed Mary twelue, &c. by whom, &c. And who neither, &c. to make a Jury, &c. Because as well, &c. At which day the Jury between the said parties of the aforesaid Plea was respited then of between them here until at this day (that is to say) from Ester day till fourteen daies then next following, unless the Kings Justices assigned to take Assizes in the County aforesaid, by sign of the Statute, &c. on Monday the eighteenth day of M. last past at the Guild-Hall of the City of E. in the last County of the City of E. had first come; And now here at this day comes the aforesaid N. by his Attorney aforesaid; And the said Justices of Assizes to whom, &c. have sent here their record in these words; Afterwards the day and year within contained before Thomas Richardson Knight, Chief Justice of the Lord the King assigned to hold Pleas before the King himself, and John Denham Knight, one of the Barons of the Exchequer of the said Lord the King, Justices of the same Lord the King, assigned to take Assizes in the County of the City of E. by sign of the Statute, &c. came as well the within named I. C. by his Attorney within contained; And the within written W. H. Gent. although solemnly called; came not, but made default; Therefore the Jury whereof within is made mention, is taken against him by default. And the Jurors of that Jury some of them (namely) I. V. &c. come, and upon the said Jury are sworn; And because the rest of the Jurors of the same Jury did not appear; Therefore another of the standers by hereunto elected by the Sheriffe of the County of the City aforesaid, at the request of the said N. C. and by the commandment of the said Justices is newly put to, whose name to the pannel within written is assised according to the form of the Statute in such case, set forth and provided; And the Juror so newly put to (namely) R. C. being called, likewise came, who to speak the truth of the within contents, together with the other Jurors aforesaid, first impanelled, and sworn, being chosen, tried, and sworn, do say upon their oath, that the within named I. H. and W. H. the Arbitrators after the making of the within written writing within specified, did make such award, order, or judgement between the aforesaid W. H. and the said N. C. of and upon the Premises within specified, as, &c. above his expences, and costs by him about his suit in this behalf laid out. Therefore it is considered, that the said Plaintiff recover, &c. damages in all eight pound; And the Defendant in mercy; &c.

Afterwards (that is to say) on Thursday next, after the Mass of St. Hilary thence next following before the Lord the King at Westminster comes the said VV. H. by R. A. his Attorney, and saies that in the record and process aforesaid, and also in the giving of the Judgement aforesaid, it is manifestly

erred

erred in this (that is to say) that where by the record it appeareth, that the Arbitrators in the condition aforesaid above mentioned, should make their award under their hands, and seals. And deliver their award, so made to the said parties, or either of them, at or before the aforesaid 10. day of M. in the condition aforesaid above specified. And by the same record it appeareth, that the said Arbitrators, the same tenth day of M. did make their certain writing of award in writing, and it was delivered to the parties aforesaid. Nevertheless, by the same Record it doth not appear, when nor to whom the same writing of the said award was delivered to the same parties. Therefore in that it is manifestly erred.

It is also erred in this, that where by the aforesaid condition of the said writing Obligation it appeareth, that the said Arbitrators should award and determine between the parties aforesaid, as well of and upon the aforesaid ship, called the P. as of all reckonings and controversies in contention between the said Parties, before or after the then last voyage at Sea of the same Ship; And by the Record aforesaid it appeareth that the Arbitrators did award also of, and for a certain Boat which was not submitted in the Arbitrament to the same Arbitrators. Therefore in that it is manifestly erred. Lastly, It is erred in this, that where by the Record aforesaid, it

appeareth that the aforesaid N. C. by his Attorney aforesaid, in form aforesaid hath prosecuted his Suite against the aforesaid W. H. Nevertheless by the record aforesaid it appeareth, that at the Trial of the issue aforesaid, before the aforesaid Justices of the said Lord the King at the Assizes aforesaid, the same N. C. neither in his own person, nor by his Attorney did appear. But one J. C. by his Attorney, in the place of the said N. did then and there appear. And therefore in that it is manifestly erred; And the same W. prayeth a writ of the Lord the King to forewarn the aforesaid N. C. to be before the Lord the King, to hear the Record and processe aforesaid; And it is granted to him, &c. whereby it is commanded the Sheriffe, that he make known to the said N. C. that he be before the Lord the King in eight daies of the Purification of the blessed Mary, wheresoever, &c. to hear the Record and processe aforesaid if, &c. And further, &c. The same day is given to the aforesaid W. H. here, &c. At which day before the Lord the King at Westminster came the said W. H. by the aforesaid R. A. his Attorney. And the Sheriffe did not send the writ thereof. And the aforesaid N. C. the fourth day of the Week, being solemnly called by T. H. his Attorney, likewise came; And thereupon the same W. H. as before saith, that in the Record and processe aforesaid, and also in the giving of the Judgement aforesaid, it is manifestly erred in alledging the errors aforesaid by him, in form aforesaid alledged; And prayeth that the Judgement aforesaid, for those errors and others in the record and processe aforesaid, being reboked, annulled, and held for nought. And that he to those things which he by occasion of the Judgement aforesaid hath lost, be restored. And that the aforesaid N. C. to the same errors respond, &c.

Whereupon the same N. C. saith, that the Record aforesaid to the said Lord the King in form aforesaid sent, is diminished in this (that is to say) that in the Record aforesaid to the said Lord the King that now is here sent in the return of the Postea, between the words, Justices of the Lord the King, and the words at the Assizes, this word King out of the Record is utterly omitted. Likewise in this (that is to say) that in the record aforesaid, to the said Lord the King that now is, here sent likewise in the return of the Postea, between these words came the within named (and this word came) this word John is inserted.

Nevertheless, the same word in the Record, in the aforesaid Court of the said Lord the King of the Bench had is not found. And that in the record aforesaid, to the said Lord the King that now is, here sent between the same

h b a

sebe.

A Scire fac.
thereof awarded.

The Parties
appear.

Assignment to
the former errors.

Restitution.

Rejoinder.

Diminution
alledged.

1

2

3

several words, last mentioned in the aforesaid return of the Postra, aforesaid (his word) (Nicholas) is omitted, which word neverthelesse in the Record, &c.

Debt brought
against the
Marshall of the
Marshalsey by
writ of privi-
ledge upon an
escape.

M. 7. Ja. Rot. 416. Brownlow. Elsewhere as it appeareth in Easter Term, Anno Regis 7. Rot. 809. it is contained thus,

London H. It was commanded the Sherffes, that they Attach, George Reynel Knight Marshal of the Marshalsey of the said Lord the King, before the same King, so that they might have him here at this day, to wit, upon Friday next, after nine daies of Easter, to answer to John Guy one of the Attornies, one of the Court of the said Lord the King of Common Bench, according to the Liberties and Priviledges of the same Court, for such Attornies, and other Ministers of the same Bench, from the time whereof, there is no more of man to the contrary, used and approved in the same of a Plea of Debt, &c. And now here at this day came the said John in his own person. And the Sherffes now returned, that the said G. is not found, &c. And hereupon it is testified in the same Court of the said Lord the King, here on the behalf of the said I. that the said G. lay hid, wandzed, and ranne up and down in the County of Middlesex.

Therefore it is Commanded the Sheriffe of Middlesex that hee attach him, so that hee may have him here upon Thursday next after three weeks of Easter, to Answer the said John in the Plea aforesaid. At which day here came well the said I. as the said G. in their proper persons. And the Sheriffe, to wit G. B. and R. F. now returneth, that hee by vertue of the same writ to him directed, attached the same G. whose body hee now hath here ready, as by that writ it was commanded him, &c. And hereupon the said I. declaring against the said G. of and upon his said writ, saith, that the said G. hath not rendred to the said I. one hundred pound which hee I owed him, and unjustly detained for that, to wit, that whereas at an other time, to wit, in Easter Term, Anno Regis, &c. 6. in the Court of the said Lord the King, before the said King at Westminster in the said County of Middlesex, then being, came the said I. by the name of I. G. Gentleman by James Terlow, then his Attorney, and brought then here in the same Court his certain Bill against one John Harris by the name of I. H. of L. Gentleman, otherwise called I. H. of the Parish of St. Olives in Hart-street in London Gentleman; then in the custody of the Marshal, of the Marshalsey of the said Lord the King, before the same King, in the same Court of our Lord the King, being of a Plea of Debt. And there were pledges to prosecute, to wit, Jo. Doo and R. Roo, by which said Bill, the same I. G. then complained of the said I. H. of a Plea that hee should render to him, one hundred pound of good and lawfull Money of England, which to him hee then owed and unjustly detained, for that that to wit, that whereas the said I. H. the nineteenth day of February, Anno, &c. 3 of London, to wit, in the Parish of St. Mary Bow in the Ward of Cheap, by his certain writing Obligatory, which the said I. G. then brought into the Court of the said Lord the King there, sealed with the seal of the said I. H. the date whereof, was the same day and year, acknowledged himself to bee held and firmly bound, to the aforesaid I. one hundred pound, to bee paid to the said I. G. when he should be thereunto required.

Neverthelesse the said I. H. although often required, the said one hundred pound, to the said I. G. before that time had not paid, but the same to him until then to pay had altogether denied, and then did deny, whereupon hee then said, that hee was the worse, and had damage to the value of ten pound. And thereupon brought his Suite, &c. And afterwards, to wit, upon Friday next after the morrows of the holy Trinitie, An. &c. 6. aforesaid, until which day the said I. H. had licence to imparle in the same Court to the said Bill, and then to answer, &c. In the same Court of the said Lord the King before the

Declares upon
a restat. At-
tachment of
priviledge up-
on a recovery
in the Kings
bench.

said King at Westminster aforesaid came the said I. G. by his said Attorneys; and the said I. H. at the same day being solemnly called, came not, nor said any thing in barre or hinderance of the aforesaid Action of the said I. G. whereby the said I. G. then remained against the said I. H. in that behalf without defence; Wherefore it was considered in the same Court of the said Lord the King before the said King, that the said I. G. should recover against the said I. H. his Debt aforesaid, and also twenty Shillings for his damages which hee had sustained, as well for detaining of the said Debt, as for his cost and charges by him about his Suit in that behalf sustained, to the same I. G. of his assent by the Court of the said Lord the King there adjudged; And that the said I. H. should then be in mercy, &c. And afterwards to wit, upon Saturday next after eight daies of Saint Martin then next following, in the same Court of the said Lord the King, before the said Lord the King at Westminster, the said I. G. in his own person; And the said I. H. then and there being present in the same Court, at the request of the said I. G. was committed by the same Court to the said G. then Marshal of the Marshalsee of the said Lord the King then being before the said Lord the King, in execution for the Debt and damages aforesaid, there to remain until, &c. By vertue whereof the said G. then Marshal of the Marshalsee aforesaid being, the same I. H. under his custody in execution for the Debt and damages aforesaid, in the prison of the said Lord the King of the Marshalsee aforesaid at Southwark in the County aforesaid had and kept: And the same I. H. so being under the custody of the said G. then Marshal of the Marshalsee aforesaid in execution for the Debt and Damages aforesaid in term aforesaid, the said G. the twentieth day of February, An. &c. 6. abovesaid then Marshal of the Marshalsee, and keeper of the same prison, being at London, in the Parish of St. Dunstons in the East, in the Ward of the Tower, suffered the said I. H. to go freely at large whether he would; the same I. G. not being satisfied of the Debt and Damages aforesaid in the whole, amounting to an hundred pound, whereby an Action accreted to the said I. G. to demand and have of the said G. the said one hundred pound for his Debt and Damages aforesaid by him the said I. G. against the said I. H. in term aforesaid recovered: Notwithstanding the said G. although often requested the said hundred pound to the said I. G. hath not yet rendered, but the same to him hitherto, to render hath denped, and hitherto denpeth, whereupon he said that he was the worse, and had damage to the value of twenty pound, And thereof brought Suit, &c. Pledges to prosecute I. Doo. R. Roo.

Judgement.
The Defendant
renders him-
self in execu-
tion thereupon.

Voluntary
escape.

The said G. R. saith that hee ought not to answer to the Declaration of the said I. G. because hee saith that hee the same G. long before the issuing out of the said Writ of Attachment out of the Court here, against the said G. to answer the same I. G. in the Plea aforesaid, and continually before, until the issuing forth of the same Writ was, and yet is a Marshal of the Marshalsee of the Lord the King, before the said Lord the King; And that the said G. by reason of his said office had, and ought to have the keeping and custody of all prisoners of the said Lord the King to him committed, as well at the time when the Court of the said Lord the King is open, as when it is shut, and in the mean time to be committed according to his said office, duly and safely to be kept at his peril, which is so great a charge to the said G. that hee in his said office from day to day doth attend before the said Lord the King and ought to attend; And the said G. saith further, that the Marshal of the Marshalsee of the said Lord the King before the said King for the time being, by reason of his said office and burthen in keeping his said prisoners to him as is premised, committed, and to be committed, and by reason of his continual attendance from day to day before the said Lord the King in his said office in any Court, unless in the same Court of the said Lord the King, before the said King ought not to be drawn into Plea, nor by any Writ of the said Lord the King in any Plea, be heard, or drawn, or ought to be heard, (Pleas

The Defendant
pleads his pri-
viledge as Mar-
shal.

The Plaintiff
demurs gene-
rally thereun-
to.

Judgement that
he answer.

Defendant
pleads in bar
that a *Habeas
Corpus* was di-
rected to him
out of the same
Bench, to have
the body, &c.
before one of
the Judges, and
that he brought
the prisoner
before the
Judge, who re-
committed
him, and a-
verts that is the escape whereupon the Plaintiff complains. T. 33. Eliz. Rot. 2441. Num. F. against C. also
brought upon an escape of one Alcock, upon a capias in Debt for forty pound.

of free Tenement only excepted) And this he is ready to verifie; and prayeth that he the same G. may be discharged from any further attendance in the Court here; And that he to the declaration aforesaid in the Plea aforesaid may not answer, &c. And the same I. G. saith that the aforesaid Plea of the said G. R. and the matter therein contained are not sufficient in Law to barre the Court here from having cognisance of the said Plea in this case, or to depriue him the said I. being one of the Attorneys of the Court here, and a privileged Clerk of the same Court, from having his said privilege; And that he to the said Plea in manner and form aforesaid pleaded, needeth not, nor by the Law of the Land is bound to answer; And this he is ready to verifie, wherefore for want of a sufficient Plea of the said G. R. in this behalf, the same I. prayeth Judgement; And that the said G. to the said Declaration of the said I. may further answer, &c. And the said G. for that he hath above alledged, sufficient matter in Law to barre the Court of the said Lord the King here from having cognisance of the said Plea; And to depriue the said I. G. from having his said privilege, which he is ready to verifie, which said Matter the said I. G. doth not gainsay, neither unto it doth any way answer, but altogether refuseth to admit of the same to be true, as before prayeth Judgement, and that he may be discharged from any further attendance upon the Court here; and that he to the said Declaration in the Plea aforesaid may not answer, &c. And because the Justices here will advise themselves of and upon the premises before they give Judgement thereof, day is given to the parties here until Friday next after the morrow of the holy Trinity to hear their Judgement thereof, because the said Justices here, then were not present, &c. At which day here came as well the same I. G. as the said G. in their proper persons; And hereupon the Premises being seen, and by the Justices here fully understood, it seemed to the Justices here that the said Plea of the said G. was not sufficient in Law to barre the Court of the said Lord the King here, from taking cognisance of the said Plea, or to depriue the said I. G. from having his privilege aforesaid, whereupon it was considered, that the said I. G. his privilege of the Court here enjoy, &c. And that the said G. give further answer to the said I. G. to his Declaration aforesaid; And hereupon the said G. defendeth the force and wrong, &c. And prayeth license thereof to impale here until Monday next after eight dayes of St. Michael, and hath it, &c. The same day is given to the said I. G. here, &c. before which day the plaint aforesaid was adjourned by writ of the said Lord the King of common adjournment here until this day, to wit, from the day of St. Michael in one month then next following; And now here at this day come as well the said I. G. as the said G. in their proper persons; And hereupon the said I. prayeth that the said G. to his declaration aforesaid may further answer, &c.

And the said G. as before, defendeth the force and wrong, &c. And saith that the said I. G. ought not to have his said Action against him, because he saith, that after the Commitment of the said I. H. in the Declaration aforesaid to be supposed to be done, that is to say, upon Monday next after the Purification of the blessed Virgin Mary, An. R. &c. 6. being the three and twentieth day of February, A. &c. 6. abovesaid, it was ordeined in the same Court of the said Lord the King before the same King, that a Habeas Corpus ad Fac. & Rec. for the said I. H. should be made returnable immediately before D. VV. Knight, one of the Justices of the Court of the said Lord the King then there, &c. at his Chamber in Sergeants Inne Fleetstreet, that he should render himself to the prison of the Marshalsey, &c. at or before the first day of March then next following; And afterwards, to wit the same thirteenth day of February the Lord the King sent his Writ of Habeas Corpus to the Marshal of

the Marshall of the said Lord the King before the same King) of the keeper of his place directed, by which said writ the said Lord the King that now is, then commanded the said Marshall of the Marshall of the said Lord the King, before the said King, or the keeper of his place, that the body of the said I. H. in Prison, of the said Lord the King, under the custody of the said Marshall as it was then said, detained, under safe and secure conduct, together with the day and cause of taking and detaining of the said I. H. by what name soever he was then called in the same Prison, he should have before the said D. W. Knight, one of the Justices of the said Lord the King, assigned to hold Pleas in the Court of the said Lord the King, before the same King, to the Inn called Serjeants Inn in Fleetstreet, London, immediately after the receipt of the same writ, to do and receive all and every such thing, or things, which the said Justice of the said Lord the King should then and there consider in their behalf, which said writ of Habeas Corpus afterwards, to wit, the nineteenth day of February, Anno 6. abovesaid at London, in the Parish of St. Dunstons in the West, in the ward of Farringdon, to the same G. then and yet Marshall of the Marshall of the said Lord the King, before the same King, was delivered to be executed in form of Law.

By virtue of which said writ the same G. afterwards, to wit, the same nineteenth day of February, Anno 6. abovesaid, then and yet being Marshall of the Marshall of the said Lord the King, before the same King, the body of the said I. H. being then at Southwark in the Parish of St. George, in the County of Surrey, in Prison under the custody of the said G. before the said D. W. Knight, then one of the Justices of the said Lord the King, assigned to hold Pleas in the Court of the said Lord the King, before the said King, at the Inn called Serjeants Inn Fleetstreet, in the parish of St. Dunstons in the West, within the ward of Farringdon, according to the command of that writ brought under safe and secure conduct; As by the same writ it was commanded him: And the said G. further saith, that the said I. H. afterwards, and before the said first day of March in the said order mentioned, to wit, the one and twentieth day of February, Anno 6. abovesaid at London, in the Parish and ward aforesaid, by the said Justice of the said Lord the King, into the custody of the said G. in the Prison aforesaid, to be safely kept, was redelivered, whereupon the said G. the same one and twentieth day of February, Anno 6. abovesaid, the same I. H. unto the said Prison of the said Lord the King in the Parish of St. George in Southwark, in the County of Surrey aforesaid, brought back under safe and secure conduct, which said I. H. from the aforesaid time of the receiving of the said writ, until the aforesaid time of redeliverance was under safe and secure conduct, according to the command of the said writ, which said conducting of the said I. H. from the Prison aforesaid before the said Justice, unto the Inn called Serjeants Inn in Fleetstreet, in the said Parish of St. Dunstons in the West, London, as is permitted, is the same permission of the said I. H. to go at liberty, whereof the same I. G. himself now complaineth; And this he is ready to verify, whereupon he prayeth judgement, if the same I. his Action aforesaid against him ought to have, &c.

And the said I. G. saith, that hee by any thing before alleged, ought not to be binded from having his said Action, because as before hee saith, that the said G. the aforesaid twentieth day of February Anno 6. abovesaid, permitted him freely to go at liberty whether he would; As the said I. G. abode against him declared without this, that the said G. by virtue of the said writ of Habeas Corpus, brought the body of the said I. H. before D. W. at the aforesaid Inn called Serjeants Inn in Fleetstreet aforesaid, in manner and form as the said G. hath abode alleged. And this hee is ready to verify, whereupon hee

The Plaintiff maintains his declaration, and denies the Duction of the Habeas Corpus and issue thereupon.

prayeth Judgement and his Debt together, with his Damages, by occasion of the detaining of that Debt to him to be adjudged, &c.

And the said G. as before saith, that hee by vertue of the said writ of Habeas Corpus, brought the body of the said I. H. before the said D. W. at the said Inn called Serjeants Inn aforesaid, in manner and form as the said G. hath abobe alleadged; And of this hee putteth himself upon the Countrey; And the said I. G. likewise.

Therefore it is commanded the Sheriffe, that hee cause to come here upon Wednesday next, after fifteen daies from St. Martin of the Neighbourhood of the Parish of St. Dunstons in the West, in the Ward of Farington without, by whom, &c. And who neither, &c. to recognize, &c. because as well, &c.

Count in debt
against an
heir, where two
are named in
the bond, and
one only sealed
it.

M. 25. b. 6. Rot. 322. London. ff. And wherenpon the said Plaintiffe by *A. B.* his Attorney saith, that whereas the said *R.* the brother of the said Defendant, whose Heir hee is such a day and year at *D.* by his writing Obligatory under the name of the said *R.* and of one *W. S. of T.* in the County of *Warwick*; Merchant, who sealed not the writing made, acknowledged himself to bee bound to the said Plaintiffe in the said ten pound to bee paid, &c. The Defendant saith, that the said *W.* sealed the said writing, and is yet alive, &c.

P. 7. and 8. H. 8. Rot. 484. Debt brought by Heirs in Gavel-kinde against Lessee for years, by their Ancestor for rent arrear, &c.

Debt

H. 10. Rot.
3394.

T. 13. Ja. Rot. 3431. Suffex. ff. *Humphry Warner* late of *East-whiting* in the County aforesaid, Yeoman, was summoned to answer *Jean Smith* widow, late wife to one *Richard Smith* now dead, of a Plea that hee rendred unto him forty shillings, &c. And whereupon the same *Jean* by *W. F.* her Attorney, saith, that whereas in the Statute in the Parliament of the Lord *Henry* late King of *England* the Eighth, at *Westminster* in the County of *Middlesex*, *Anno Domini*. &c. 21. Held amongst other things, it was Enacted, Ordained, and established, that from the first day of *April*, *Anno Domini*. 1530. No Parson, Viccar, Curate, or Parish Priest, nor any other Spirituall person, nor their Farmers, Bailiffs; or Lessees, should take, receive, or demand of any person, or persons within this Kingdome, for any Person, or Persons dyeing within this Kingdome, any Mortuary or corporall presentment, any summe or summes of mony, or any other thing for the same, more than what is in the same Statute afterwards mentioned, nor convent, nor call any person or persons, before any spiritual Judge, for the recovering of any such mortuary or corporall presentment, or of any other thing for the same, more than afterwards is mentioned in the same Statute, under the penalty of forfeiting for every time demanding, receiving, taking, or conventing, or calling any such person or persons, before any spiritual Judge, so much in value as they should receive, beyond the sum limited by the said Act; And besides the said sum 40: to the party grieved contrary to the said Act, for which said forfeiture the party grieved contrary to the Act, should have his Action of Debt, by writ, Bill, plaint or information in any of the Courts of the said Lord the King, wherein no wager of Law, essoyne, or protection should bee allowed, to wit, that no mortuary should bee taken or demanded of any person whatsoever, which at the time of his death, should have in Goods moveable under the value of ten marks; And also that from thenceforth for the future, no mortuary bee given, required, or exacted of any person, only in such place where before mortuaries were wont to bee given and paid, and in such places, in no other manner, unless according to the rate and form afterwards mentioned, nor that any person pay

more

mortuaries in many places, but in the abode and dwelling there, and but one mortuary; nor any Parson, Vicar, Curate, Parish Priest, or other, for any person, departing, or dying, and at the time of his death being worth in goods moveable, clearly to the value of ten marks, besides his Debts paid, and under the summe of thirty pound, may not take for a mortuary beyond three shillings four pence in the whole. And the party departed or being dead, at the time of his death, being worth to the value of thirty pound, or more clearly, his debts being paid in moveable goods, and not to the value of forty pound, should not take or require more for a mortuary than six shillings and eight pence in the whole, as by the same Act amongst other things more fully appeareth. Norwithstanding the said H. not ignorant of the premises, little regarding the Statute aforesaid, after the making of the said Statute, to wit, the twentieth day of October, *Anno Regis, &c.* 10. and then being farmer of the Parish Church of E. aforesaid, at E. aforesaid, took of the said I. for the mortuary of the said R. S. her late Husband, which before then at E. aforesaid dyed, not having moveable goods to the value of forty pound, ten shillings, against the form of the Statute aforesaid, whereby an action accrewed, &c.

Nil debet per patriam, Pleadeth.

M. 5. J. 101. 1513. Brownlew Southhampton. J. R. Smith was summoned to answer *Peter Walker Clerk, &c.*

And whereupon the said P. by *Stephen W.* his Attorney saith, that whereas the same P. the first day of *May, Anno. &c.* *Primo* was seised, and continually afterwards hitherto was, and yet is seised of the Rectory of the Parish Church of B. and P. with the Appurtenances, in the County of *South.* in his demesne as of fee, in the right of his Church aforesaid. And also whereas the said R. S. at the feast of *St. Michael* the Arch-Angel, *Anno Reg. &c.* *Primo* was occupier of thirty six Acres of Land, with the Appurtenances, situate lying and being within the Parish of P. aforesaid, the confines, limits, and tythable places of the same Parish. And those tenements with the Appurtenances, held and occupied, from the said feast of *St. Michael* the Arch-Angel, by the space of three years thence next following, of which said Tenements, the tythes of Corn of and from the same Tenements, with the Appurtenances, yearly growing, renewing, and coming, within fourty years next before the third day of *November*, in the year of the reign of the Lord *Edward* the second, the sixth, of right were due and used to be paid to the Parson of the Church for the time being, or to his proprietor, Farmer or Deputy, for the time being of the said Church. And the same R. S. So being Occupier of the Tenements aforesaid with the Appurtenances, the same R. within the same time of three years, to wit, the first day of *September, Anno, &c.* 2. The Corn growing upon twenty Acres of Land, parcel of the Tenements aforesaid, with the appurtenances; and also the twentieth day of *September, Anno &c.* 3. Barly growing upon the said twenty Acres of Land parcel of the Tenements aforesaid, with the Appurtenances, and also the first day of *September, Anno 3.* wheat and Rye growing upon fourteen Acres of Land parcell of the Tenements aforesaid with the Appurtenances. And also upon the twentieth day of *September. Anno, &c.* 4. Barly growing upon the said fourteen Acres of Land parcel of the Tenements aforesaid with the Appurtenances by the said R. S. mowen and made up. And the said P. in fact saith, that after the mowing and making up of the said grain, to wit, of the said Wheat and Rye, in the whole amounting to one hundred Loads of wheat and Rye, and of Barley, in the whole amounting to one hundred Loads of Barley, the same R. S. afterwards, to wit, the same first day of *September. Anno. 2.* above said, and the said twen-

Debt for the treble value, for Tythes not set out upon the Statute E. 6. 2. The Statute is not recited.

M. 15. Ja. 101. 3140.

M. 11. Ja. 101. 912.

E. 41. Eliz. 101. 434. E. 4. Eliz. 101. 434. Debt upon the Statute for tythes of birches and hawthorns. *H. 9. Ja. 101. 2001.*

M. 9. Ja. 101. 2096.

several Counts *T. 20. Jac 10. 782. M. 20. Ja. 101. 701. H. 3. Ja. 101. 901* upon the Statute for non payment of hops.]

K k k

tieth

tieth day of September, Anno. 3. Above said, And the said twentieth day of September, Anno 4. above said, did not divide nor set forth the tenth part of the said Grain from the nine parts thereof, but the same R. S. afterwards, to wit, the same first day of September, Anno. 3. above said, the said grain of Wheat without any division or setting forth of the said tenth part thereof, from the nine parts thereof, at P. aforesaid took and carryed away. And also the same first day of September, Anno. 3. above said, the said grain of wheat and Rye without any division, or setting out of the said tenth part of the same from the nine other parts thereof at P. aforesaid took and carryed away. And also the same twentieth day of September, Anno 3. above said, the said grain of Barly without any division, or setting out of the tenth part of the same, from the nine parts thereof, at P. aforesaid took and carryed away, against the form of the Statute in such case made and provided. And the said P. further in fact saith, that the tenth part of the grain aforesaid, so as aforesaid, not divided or set forth from the nine parts thereof, and by the said R. at the several daies and years aforesaid taken and carryed away, at the same times of the taking and carrying away thereof, was worth thirteen pound, six shillings, and eight pence, of lawful money of England, whereby action accrewed to the said P. to demand and have of the said R. forty pounds, that is to say, treble the value of the same Tythes, so as aforesaid, not divided nor set out from the nine parts aforesaid. Nevertheless the said R. although often required the said forty pounds; &c. And thereupon hee bringeth suite, &c.

Harris

Nil debet per patriam, Is Pleaded by the Defendant.

Count in debt for the value and damages recorded in dower upon the Record of recovery.

M. 32. and 33. Eliz. Rot. 1418, Brownlow Dors. s. T. B. and L. and M. and I. his wife, was summoned to Answer C. and Agnes his wife of a Plea, that they render not unto them Twelve pound, thirteen shillings, four pence, &c. And whereupon the same I. and A. by L. W. their Attorney, say, that whereas they at an other time, to wit, the ninth day of February, Anno Reg. &c. 39. came to the Court of Chancery of the said Lady, the now Queen (the same Court at Westminster in the County of Middlesex) then being, and then prosecuted out of the same Court of Chancery, a certain writ of the said Lady the Queen of Dower, whereof the said A. had then nothing &c. against the said T. L. M. & I. of the freehold, which was of G. Gentleman, late Husband of the said A. M. W. S. M. V. and A. (the same T. L. M. and I. then being Tenants of the free Tenement thereof, directed to the Sheriffe of Dorsetshire, by which said writ [the said Lady the now Queen, commanded the then said Sheriffe of Dorsetshire, that the said then Sheriffe should command the same T. L. M. and I. that justly and without delay, they render to the same I. and A. the reasonable Dowry of the said A. which did happen unto her out of the freehold, which was of G. W. her late husband M. W. S. M. V. and A. as they said. And unless they did it, and that the said I. and A. made him the said Sheriffe, secure of prosecuting their claim, then the same Sheriffe summon by good summoners the said T. L. M. and I. that they should bee before the Justices of the said Lady the Queen at Westminster, from Easter day in fifteen daies then next following, to shew wherfore they had not done it, And that he should have here the Summoners, and that writ, at which said fifteen day from Easter, before E. A. Knight, and his associates, then Justices of the said Lady the Queen of the Common Bench, here came as well the said I. and A. by L. W. their Attorney, and C. P. then Sheriffe of the County of D. returned then here the said writ to him in form aforesaid, directed in all things, served and executed, that is to say, that the said I. and A. had found to the said Sheriffe, pledges to prosecute the said writ, to wit, I. D. R. R. And that hee summoned the said T. L. M. and I. by

The return of the summons not well, because the Sheriffe made not Proclamation, &c.

by A. M. and J. H. to bee here at the aforesaid fifteen dayes of Easter, to answer to the said I. and A. in the Plea aforesaid; And hereupon the said I. and A. declaring against the said T. L. M. and I. of and upon the writ aforesaid, by I. W. their Attorneys demanded against the said T. L. M. and I. the third part of eighty two Acres of Pasture, and fifteen Acres of Wood, with the appurtenances in W. S. M. V. and A. aforesaid, as the dower of the said A. of the Indowment of the said G. W. her late Husband, &c. And the said T. L. M. and I. by the said A. W. then their Attorneys prayed the view of the Tenements aforesaid, with the appurtenances, whereof, &c. and had imparlance until in eight daies of the holy Trinity; And in the mean time &c. at which day here came as well the said I. and A. as the said T. L. M. and I. by their Attorneys aforesaid; And hereupon the said I. and A. did demand against the said T. L. M. and I. the third part of the aforesaid eighty two Acres of Pasture, and fifteen Acres of Wood, with the appurtenances in W. S. &c. as the dower of the said A. of the Indowment of the said G. W. her late Husband, &c. And the said T. L. M. and I. prayed imparlance here until in eight dayes of St. Michael, and had it, &c. The same day, &c. At which day here came as well the said I. and A. as the said T. L. M. and I. by their Attorneys aforesaid, and prayed imparlance here until fifteen Pasche, &c. At which day here came as well the said I. and A. as the said T. L. M. and I. by their Attorneys aforesaid; And hereupon the said I. and A. by their Attorneys aforesaid, demand against the said T. L. M. and I. the third part of the aforesaid eighty two Acres of Pasture, and fifteen Acres of Wood, with the appurtenances, in W. &c. as the dower of the said A. of the Indowment of the said G. her late Husband, &c. And the said T. L. M. and I. say that the said I. and A. the dower of the said A. of the Tenements aforesaid with the Appurtenances, whereof, &c. of the Indowment of the said G. her late Husband against them ought not to have, because they protest that the said G. was never seized of the Tenements aforesaid with the appurtenances, whereof &c. of such an estate that hee could endow the said A. thereof, nor dyed thereof, for Plea; they say that the said G. W. of late was possessed of one bagge, with others deeds, writings, and miniments contained in the same bagge, touching and concerning the said Tenements, whereof the said I. and A. above demand the third part in form aforesaid, to wit, at W. aforesaid; And dyed thereof possessed, after whose death the same T. and M. and the same L. and I. as Sons and Heirs of the said G. into the Tenements aforesaid, with the Appurtenances entered and the same bagge with the deeds, writings, and miniments aforesaid, after the death of the said G. came to the hands and possession of the said A. while shee was sole at W. aforesaid; And the same T. L. M. and I. there afterwards demanded of the said A. the said bagge, with the deeds, writings, and miniments aforesaid to be delivered to them; And the same A. while shee was sole; And the same A. and I. after espousals betwixen them celebrated, although oftentimes requested, the same bagge with the deeds, writings, and miniments therein, the same to the said T. L. M. and I. to deliver altogether heretofore have refused, and then and yet do refuse, and unjustly detain; And further the said T. L. M. and I. said that the third part aforesaid to the said I. and A. as the dower of the said A. alwaies heretofore were, and are now ready to peeld and endow the said A. of the same, if the same I. and A. would deliver the said bagge with the deeds, writings, and miniments therein to the same T. L. M. and A. And this they were then ready to prove, whereupon they prayed Judgement if the same I. and A. the dower of the said A. of the Tenements aforesaid with the Appurtenances, whereof, &c. against them ought to have, &c. And the said I. and A. said that it was well and true that the said G. her late Husband was possessed of the bagge aforesaid with the deeds, writings, and miniments in the same bagge contained, touching and concerning the Tenements with the Appurtenances, whereof, &c.

T. 30. h. 6.
Ro. 551. like
Plea.

and dyed thereof possessed, after whose death the same bagge with the dower, wittings, and miniments, came to the hands, and possession of the said A. while she was sole, and that she was thereof possessed, and afterwards to her Husband the same I. and that the same I. and A. before that time had been, and then were possessed of the said bagge and the dower, wittings, and miniments therein; And that the same A. from the time of the death of the said G. while she was sole, and the same I. and A. after espousals between them celebrated, before then were ready, and now are ready to deliver to the said T. L. M. and I. the said bagge with wittings, &c. And they then brought it into the Court to deliver it to the said T. L. M. and I. whereupon the said T. L. M. and I. the same bagge with the wittings, &c. by the deliberance of the said I. and A. here in Court took, whereby the said I. and A. were thereof quiet, &c. And further it was then considered in the same Court that the said I. and A. should recover their seisin against the said T. L. M. and I. of the third part aforesaid with the appurtenances; And upon this the said I. and A. for having the value of the Damages aforesaid from the time of the death of the said G. her late Husband, &c. and their Damages by occasion of the detaining of the dower of the said A. of the Tenements aforesaid with the appurtenances, whereof, &c. said, that the said G. her late Husband, &c. dyed at W. aforesaid, seized of the Tenements aforesaid with the Appurtenances, whereof, &c. in his demesne as of Fee; And that the said A. after the death of the said G. while she was sole, and before the day of purchasing the original writ of the same I. and A. to wit, the nine and twentieth day of September, Anno, &c. at W. aforesaid often requested the said T. L. M. and I. to yield to the said A. her Dower of the Tenements aforesaid with the Appurtenances, whereof, &c. And that the said T. L. M. and I. to yield to the said A. her said Dower of the said Tenements with the Appurtenances then and there altogether refused. And this they were then ready to prove, whereupon they prayed Judgement and the value of the Dower aforesaid, and also their damages, by occasion of the detaining of the dower, of the said A. to be adjudged them, &c. And the same T. L. M. and I. as before say that they from the time of the death of the said G. were ready to yield to the said A. while she was sole, and to the same I. and A. after marriage between them celebrated the Dower of the said A. of the Tenements aforesaid with the Appurtenances whereof, &c. As they have above alleadged, without that that they refused to yield to the said A. her Dower of the Tenements aforesaid, with the Appurtenances, whereof, &c. As the said I. and A. have above alleadged; And that they were then ready to verify, whereupon they then prayed Judgement of the said I. and A. the value of the Dower aforesaid, and their Damages, by occasion of the detaining of the Dower of the said A. against them ought to have, &c. And the same I. and A. as before did say, that the said T. L. M. and I. refused to yield to the said A. her said Dower of the Tenements aforesaid, with the Appurtenances, whereof, &c. As they have above alleadged; and then prayed that it might be inquired of by the Countrey, and the said T. L. &c. Likewise Vefac. returnable in the morrow of the holy Trinity. And hereupon the said I. and A. pray a writ of the said Lady the Queen, to be directed to the Sheriffe of the County aforesaid, to cause to be had to them full seisin of the third part aforesaid, with the appurtenances. And it was granted to them returnable here at the same term, &c. At which day then here came the parties, &c. And as to the said writ of causing to be had seisin, the Sheriffe hath done nothing therein, nor sent the writ thereof. Therefore as before, another writ was made unto him in form aforesaid, returnable here in Crast. Anim. then next following, and at the said Crast. Trin. a Jury between the parties aforesaid, of the Plea aforesaid, whereupon the said parties have above pleaded to, issue of the Countrey was respited between them thereof here, untill in O. M. chad.

then next following; unless the Justices of the said Lady the Queen, assigned to take the Assizes in the County aforesaid, by form of the Statute &c. on Monday the sixteenth day of July, next before the said O^r. Mich. at D. in the County aforesaid should first come, at which said eight dayes of St. M. here, to wit, at Westminster aforesaid, came the said I. A. by their said Attorneys; And the said Justices of Assizes, before whom, &c. sent there their Record in these words; Afterwards the day and place within contained, before E. A. Knight, &c. and Thomas Gent, one of the Barons, &c. Justice of the said Lady the Queen, assigned to take Assizes in the County of D. by form of the Statute, &c. come as well the within named I. A. as the within named T. L. M. and I. by their Attorneys within contained; And the Jurors of the Jury whereof mention, is within made, being called some of them, to wit, A. B. &c. Recite the Jurors names, with a tales circumstantibus, who being impannelled and sworn, say upon their Oath, that the said T. L. M. and I. refused to peild to the said A. her dower of the Tenements within written, with the Appurtenances, whereof, &c. As the said I. and A. have within by pleading alleged. And further the said Jurors say upon their said Oath, that the Tenements aforesaid with the Appurtenances, are worth by the year in all issues besides Profits six pounds, and that three years are elapsed from the time of the death of the said G. W. And they assesse the damages of the said I. and I. by occasion of the detaining of that dower besides their costs, and Damages by them about their Suite in this behalf, laid out ad four pence. And for those costs and charges to two pence. Therefore it was then considered here, that the said I. and A. recover against the said T. L. M. and I. the value of the third part of the Tenements aforesaid with the Appurtenances, from the time of the death of the said G, which value from the time of the death of the said G. in the whole doth amount unto six pounds, and his damages aforesaid to six pound, by the Jury aforesaid, in form aforesaid assessed; and also six pound twelve shillings and ten pence, to the same I. and A. at their Request for increase of their said costs and charges, by the Court here adjudged, which said value and damages in the whole do amount unto twelve pounds thirteen shillings and four pence. And the said T. L. M. and I, in mercy &c. whereby Action accrewed to the said I. and A. to demand and have of the said T. L. M. and I. the said twelve pound, thirteen shillings and four pence. And the said T. L. M. and I. execution for the said twelve pound thirteen shillings, and four pence have not yet attained. Wherefore the said T. L. M. and I. the said twelve pound thirteen shillings and four pence, to the same I. and A. have not yet rendred, but the same to them to render have refused; and yet refuse, to the damage of the said I. and A. of forty pound, and thereof they bring suite, &c.

And the said T. L. M. and I. by A. W. their Attorneys, come and defend the force and wrong when, &c. And say that they do not owe to the said I. and A. the said twelve pound thirteen shillings, and four pence, nor any penny thereof, in such form as the said I. and A. have above declared against them, and for this they put themselves upon the Countrey. And the said I. and A. likewise. Wherefore in O^r. Hillarii xii, &c. Such plea is not good, for it cannot be pleaded to matter of Record. See Easter 13. Ja. rot. 774. Brownlow the like Declaration in Debt for the value and damages recorded in dower, and declares upon the proceedings and essopnes, &c. Judgement by Nihil: dicat.

Quera.

Midd. T. Between Amery and Tillis for Land in Woxbridge, in the end of the Count, aberment is made that the recovery in dower is in full force, and not reversed, which adment is not besitting to be made, because it is said, as by the record and proceedings, &c.

Restoration
of H. 6.

T. 5. E. 4. Rot. 141. ff. before which day the Plaint aforesaid remained without day, for that H. the Sixth, now King of England after the Conquest, by Divine favour and aid of the said Edward, being wholly removed from the possession and exercise of his regal Dignity, and power in the Kingdom of England, as well justice, as his owne demerit, concurring, into the same regal Dignity and Power, Rules and Government of the same Kingdom, made his returne, and took them upon him, after whose said returne and undertaking, to wit, the one and twenty day of November, Anno. from the of inchoation, the Kingdom of the said Hen. now King of England 49. and from redemption of his regal power, Anno 1. the same I. A. came here into the Court, &c.

H. 13. 74. Rot. 1816. Sic fac. against Ter-tenants, the Sheriffe returns that Sci. fac. to the Ter-tenants, but shews not of what Lands they were Tenants; the

Plaintiffe avers, that the Defendant in his life time was seised of such Lands in certain at the time of the Judgement, of which Lands the Ter-tenant is returned Tenant, and prayeth Judgement of those Lands. H. 13. 74. Rot. 1816. A *scire fac.* is awarded against the Ter-tenants, the Sheriffe returneth that *Sci. fac.* to the Ter-tenants, but doth not shew of what Lands they were Tenants; The Plaintiffe avers, that the Defendant in his life time was seised of such Lands in certain at the time of the Judgement given, and that such Ter-tenants as are returned are Ter-tenants thereof; and prayeth execution of those Lands, &c.

T. 17. 74. rot. 1717. Brownlow otherwise as it appeareth H. 16. 1. rot. 1937. it is contained thus, otherwise as it appeareth in Trin. 6. I. rot. 301. it is thus contained, London ff. it was commanded the Sheriffs, whereas Vincent Norrington, lately in the Court of the Lord King James now King of England, that is to say, in Michaelmas Term, in the 35. and 36. year of his Reign before E. A. Knight, and his Associates then Justices of the said Lord the King of the Common Bench at the Town of St. Albans in the County of Hertford, by the consideration of the same Court had recovered against F. Earl of Derby, otherwise called. F. Earl of Derby, as well a certain Debt of 300. l. as 40. s. which to the said Vincent in the same Court of the said Lord the King of the Common Bench, were adjudged for his damages, which he had by occasion of detaining of that Debt whereof he is convicted, as by the Record and proceedings in the same Court of the said Lord the King here, to wit, at Westminster remaining manifestly appeareth, notwithstanding Execution upon the said Judgement as yet remaineth to be done, and as well the said Earl as the said V. are dead, as by information of Jo. W. and S. his Wife, Administratrix of the Goods and Chattels which were of the said V. not Administrated by I. N. late Executor of the Testament of the said V. to the now King did understand, and because, &c. that by honest, &c. he should make known to the Tenants of the Lands and Tenements which were of the said Earl, 2 Mich. Anno Reg. Reg. &c. 35. 1. upon which day the said Judgement was thereof given, or any time afterwards, that they should be here at this day, to wit, Tres Trin. to shew if any thing, &c. wherefore the debt and damages aforesaid ought not to be made of those Lands and Tenements, and paid to the said I. and S. according to the forme of the said Recovery, &c. And now here at this day, to wit, at the aforesaid Tres Trin. came here the same I. S. by A. L. their Attorney, and offered themselves the fourth day against the said Tenants of the aforesaid Plea, and they being solemnly called came not, and the Sheriffs, to wit, R. H. and W. H. now returne, that there are not any Tenants, or Tenant of any Lands and Tenements which were of the said Earl at the time of the Judgement given, or any time afterwards in their Balywick, to whom or who they could make known; and hereupon it is testified in the same Court of the said Lord the King here, that there are divers Tenants of the Lands and Tenements which were of the said Earl at the time of the said Judgement given, and afterwards in the County of Chester, to whom it may be made known.

Therefore

Therefore it is commanded to *Charles* Prince of *Wales*, Duke of *Cornwall* and *Dorset*, and Earl of *Chester*, the beloved Son of the Lord the King that now is, or to his Chamberlain of the County Pallatine of *Chester*, or of his place there keeper, that by another Writ of the said Lord the King under his Seal of the County Pallatine aforesaid, in due manner to be made, they command the Sheriffe of the said County Pallatine, that by honest, &c. he makes known to the Tenants of the Lands and Tenements, which were of the said Earl at the time of the Judgement given, or at any time afterwards in the County aforesaid, that they be here in the morrow at *All Souls*, to shew in form aforesaid, &c. at which day here come the same *I. S.* by their Attorney aforesaid, and the said Chamberlaine of the County Pallatine aforesaid did nothing thereupon, nor sent his Writ thereof, therefore as before let another Writ be thereof made returnable here *15. Hilary*, and now here at this day, to wit, at the aforesaid *15. of Hilary*, come the said *I. W. and S.* by their said Attorney, and offered themselves the fourth day against the said Tenants of the Lands and Tenements aforesaid, with the appurtenances in the Plea aforesaid, and the Chamberlaine of the County Pallatine aforesaid, that is to say, *William* Earl of *Derby* now returneth; That he by vertue of the said Writ to him directed, by another Writ of the said Lord the King under the Seal of the County Pallatine aforesaid, commands the Sheriffe of the said County, that by honest, &c. he should make known to the same Tenants as it was above commanded to the said Chamberlaine, and the same Sheriffe, namely, *R. M.* Knight answered the said Chamberlaine, that he by vertue of the other Writ to him in that behalf directed by *R. B. and I. B.* honest, &c. made known to *F. H.* Gentleman, *H. D.* Gent. *R. B.* with twenty seven others, Tenants of the Lands and Tenements which were of the said Earl of *Derby* in *Desley*, in the County of *Chester*, whereof the said Earl was seised in the aforesaid *Octo. Mich. Anno 35.* above said, which day Judgement aforesaid was given, that they should be here at the aforesaid *fifteenth Hilary*, to shew in form aforesaid, and that there are not any other, or more Tenants of any Lands, or Tenants which were of the said *F.* at the time of the Judgement aforesaid given, or anytime afterwards in his Balywick to whom he could make known; whereupon the said Tenants being solemnly called, the same *H. W. and R. B.* with *22.* others by *G. M.* their Attorney came, and the said *F. H.* with five others came not, but made default.

Therefore it is considered, that the said *I. W. and S.* have Execution against the said *F. H.* and five others of the Debt and Damages aforesaid, of the Lands and Tenements which were of the said Earl of *Derby*, whereof the said Earl was seised at the time of the said Judgement given, being in their hands by default of the said *F. H.* and the five others; and hereupon the said *I. W. and S.* by the Statute, &c. chose to be delivered to them the moyety of all the Lands and Tenements aforesaid, with the appurtenances, whereof the said *F.* and the five others as is premised, are verally returned to be Tenants, which were of the said *F.* at the time of the said Judgement given, to hold as their free Tenement to them and their Assignes according to the forme of the Statute aforesaid, untill the Debt and Damages aforesaid shall be thereof leaved, and pray a Writ of the said Lord the King, thereof to be directed to the Chamberlaine of the County Pallatine aforesaid, and it is granted to them, &c. returnable here in the morrow of the Assension of our Lord, &c. And hereupon the said *I. W. and S.* say, that the said *V.* after the said Judgement given dyed intestate, and that the Administration of all the Goods and Chattels which were at the same *V.* at the time of his death by the said *I. N.* not administered by *G. Arch-Bishop of Canterbury*, of all *England* Primace;

Special impar-
lance.

and Metropolitan, 12th day of *Novemb. Anno Reg. Sc. 15.* at *London* in the Parish of *St. Mary Bow*, in the Ward of *Cheap*, after the death of the said *I.* were committed to the said *Sarah*, and they bring her in Court the Letters of Administration of the said Arch-Bishop, which the Commission of the Administration aforesaid in forme aforesaid testifie, &c. And pray Execution against the said *H. W. K. B.* and the twenty seven others of the said Debt, and damages of the Lands and Tenements aforesaid, whereof they the same *H.* and *K.* and twenty seven others are returned Tenants to them to be adjudged, &c. And the said *H. W.* and *R. B.* with the twenty seven others, saving to themselves all and every advantages and exceptions, as well to the Writ, as to the Declaration aforesaid, pray liberty thereof to imparle here until *15. Pasche*, and have it, &c. the same day is given to the said *I. W.* and *S.* here, &c. and it was continued until *Craft Trin.* next after, at which day the Plaintiffs and Defendants come by their Attornies aforesaid, and hereupon the said *I. W.* and *S.* pray execution as before, to them to be adjudged, &c. And the aforesaid *H.* was to one Messuage, and two hundred Acres of Land, Meadow and Pasture, with the appurtenances in the Tenure of the said *H.* in the aforesaid faith, that the said *I. W.* and *S.* execution against him of the Debt and Damages aforesaid of the same Tenements, with the appurtenances ought not to have, because he saith, that the said *F.* late Earle of *Derby* at the day of the said Judgement given, nor any time afterwards was seised of the same Tenements, with the Appurtenances in his Demeasne as of Fee, as by the returne of the said Writ is above supposed; and the same *H.* further saith, that he is not Tenant of any other Lands or Tenements which were of the said Earle in *B.* aforesaid, and this he is ready to verifie whereupon he prayeth Judgement, if the said *I. W.* and *S.* Execution against him of the Debt; and Damages aforesaid of the said Messuage, and two hundred Acres of Land, Meadow and Pasture, with the appurtenances ought to have, &c. and thirteen others returned Terr-tenants plead the same Plea severally of the Lands held by themselves, &c. and the said *R. B.* as to one Messuage, and forty Acres of Land, Meadow and Pasture, with the appurtenances in the Tenure of the said *R. B.* in *B.* aforesaid, prayeth Judgement of the said Writs, &c. because he saith, that long before the time of Purchasing of the first VVrit of *Scire Facias*, one *Edward Fytton* Barroner was seised of the Tenements aforesaid, with the appurtenances in his Demeasne as of Fee, and being so thereof seised, afterwards, and before the day of Purchasing of the said first Writ of *Scire Facias*, to wit, the fourth day of *Febr. Anno, &c. 14.* at *London*, in the Parish and Ward aforesaid, demised to the said *R. B.* the Tenements aforesaid, with the appurtenances, to have, and occupy to the said *R.* and his Assignes, from the said fourth day of *Febr.* unto the end and terme of eighty years from thence next following, and fully to be compleat and ended, if the said *R.* and one *E. B.* his Son, should so long live; by virtue of which said Demise the said *R. B.* the fifth day of *April, Anno 14.* aforesaid, into the Tenements aforesaid, with the appurtenances entered and was, and yet is thereof possessed; the Reversion thereof to the said *E. F.* in forme aforesaid belonging, and this he is ready to verifie; whereupon for that the same *R. B.* is not Tenant of the free Tenement of the same Tenements, with the appurtenances, the same *R. B.* prayeth Judgement of the same Writs, &c. and the same Plea was pleaded severally by nine other Terr-tenants in abatement of the Writ, &c. of Lauds specified in certaine, and confesse for themselves, &c.

Replication.

And the said *I. W.* and *S.* as to the aforesaid Plea of the said *H. W.* above pleaded, in delay of Execution aforesaid saith, That he by any thing before in the same Plea alleadged, from having his Execution aforesaid against

against him, of the Debt and damages aforesaid, in the aforesaid Messuage, and two hundred Acres of Land, Meadow, and Pasture, with the appurtenances in the Tenure of the said *H.* ought not to be hindered, because they say that the said *F.* late Earle of *Derby*, at the day of the said Judgement given, to wit, at the aforesaid 8 *Mich. Anno 35. Elix.* was seised of the same Tenements, with the appurtenances in his Demeasne, as of Fee as by the returne of the said Writ is above alledged; and this hee prayeth may be inquired of by the Country, and the said *H. W.* likewise, and the Plaintiffs plead the same replications, to the severall Pleas of thirteen others, &c. And as to the said Plea of the said *R. B.* as to the said Messuage, and forty Acres of Land, Meadow, and Pasture, with the appurtenances in quathment of the VVrits aforesaid above pleaded, saith, That the said VVrits for the reason in the same Plea alleadged ought not to be quashed, because he saith, that before the said *E. F.* had any thing in the Tenements aforesaid, with the appurtenances, the same *F.* late Earle of *Derby* was seised of the Tenements aforesaid, with the appurtenances in his Demeasne as of Fee, and being to thereof seised, afterwards, and before the day of the said Judgement given, to wit, the twentieth day of *Aug. Anno 35.* aforesaid at *London*, in the Parish and VVard aforesaid, demised to the said *E. F.* the Tenements aforesaid, with the appurtenances among other things, to have, and occupy to the same *E.* and his Assignes for the term of one hundred years thence next following, and fully to be compleat and ended, if the said *E. F.* should so long live, by vertue of which Demise the said *E.* into the Tenements aforesaid amongst other things entred, and was thereof possessed, and so being thereof possessed the same fourth day of *April, Anno 14.* aforesaid, Demised to *Butler*, as *Butler* pleadeth, if hee should so long live, as the same *R. B.* hath above alledged; by vertue of which demise the same *R. B.* into the Tenements aforesaid, with the appurtenances, amongst other things entred, and was thereof possessed, and being so thereof possessed, the said *E. F.* afterwards, and before the day of purchasing of the said VVrits of *Sci. fac.* at *London*, in the Parish and VVards aforesaid dyed, after whose death the said late Earl into the Tenements aforesaid, with the appurtenances, amongst other things entred, and was thereof seised in his Demeasne as of Fee, and being so thereof seised, the same *R. B.* afterwards, and before the purchasing of the said VVrits of *Scire Fac.* in and upon the possession of the said *F.* late Earl of *Derby* thereof re-entred, and was Ter-tenant of the Tenements aforesaid, with the appurtenances, at the time of purchasing of the said VVrits of *Scire facias*, and was of the same Tenements seised in his Demeasne as of Fee, without that that the said *E. F.* at the time of the said Demise to the said *R. B.* in forme aforesaid made, was seised of the Tenements aforesaid, with the appurtenances in his Demeasne as of Fee, as the said *R. B.* hath above alledged, and this they are ready to verifie; whereupon they pray Judgement, and that their VVrits may be adjudged good, and execution against the said *R. B.* of the Debt and Damages aforesaid, of the Tenements aforesaid, with the appurtenances, to be adjudged, &c. and the same Replications was made to nine severall Pleas in abatement, &c.

And the said *R. B.* as to the Plea of the said *I. W.* and *S.* as to the said Messuage, and forty Acres of Land, Meadow, and Pasture, with the appurtenances in the Tenure of the said *R. B.* above in Replication pleaded saith, that that Plea in forme aforesaid pleaded, and the matter therein contained is insufficient in Law to maintaine the said *I.* and *S.* to have execution against him of the Tenements aforesaid, with the appurtenances, and that he to the said Plea in manner and forme aforesaid pleaded,

M m m

pleaded,

Rejoinder
and demur-
ret to the first re-
plication, and
so also to sever-
al others.

pleaded hath no need, nor is bound by the Law of the Land to answer, and this he is ready to verifie, whereby for want of sufficient replication of the said *I.* and *S.* in this behalf, the same *R.* prayeth Judgement; and that the said *I. W.* and *S.* may be barred from having execution against him of the Debt, and Damages aforesaid of the same Tenements, with the appurtenances; and thereupon several Demurrers of nine others, &c.

And the said *I. W.* and *S.* as to the said Plea of the said *R. B.* as to the aforesaid Messuage, and forty Acres of Land, Meadow, and Pasture, with the appurtenances in the Tenure of the said *R. B.* the same *I. W.* and *S.* for that they have above alleged sufficient matter in Law for them the said *I.* and *S.* to maintaine, and have their execution against him the said *R. B.* of their Debt, and damages aforesaid, of the Tenements aforesaid, with the appurtenances, which they are ready to prove; which said matter the said *R. B.* doth not gain-say, nor answer thereunto, but refuseth to admit of the same to be true; as before, pray Judgement and Execution against the said *R. B.* of the Debt, and Damages aforesaid, of the Tenements aforesaid, with the appurtenances to be adjudged them, &c. And thereupon several joynings in Demurrer to seventeen other several Pleas; and because the Justices here will advise themselves of, and upon the Premises aforesaid, whereupon the said *I. W.* and *S. R. B.* and the nine other Ter-tenants have put themselves upon Judgement of the County, before they give Judgement thereof, day is given to the Parties aforesaid, here, until in eight daies of St. *Michael*, to hear thereof their Judgement, for that the said Justices here, thereof not as yet, &c. And as to the issue aforesaid, between the said *I. W.* and *S.* and thirteen others Ter-tenants above joyned, because the same issues by men of the said County Pallatine of *Chester*, to wit, of the neighbour-hood of *B.* in the County of *Chester* (where the VVrit of the said Lord the King doth not run) and in no other place ought to be tried; therefore the Record of the said Plaint be sent before the Justices of the said Lord the King against *Chester*, that the Justices by VVrit of the said Lord the King, of the said County Pallatine, command the Sheriffe of the same County, that he caule to come before the said Justices at the next Assizes, after the Record thereof shall be delivered to him, twelve, &c. by whom, &c. and who neither, &c. to Recognize, &c. because as well, &c.

The Revenue
arisen in the
County of
Chester, and the
re-fac. is awar-
ded accord-
ing-ly.

Dower.

Count in
Dower against
the guardian in
Chivaldry.

M 6. E. 6. Rot. 716. Rockwood L. ff. N. S. and Joan his wife, by S. S. their Attorneys demand against Robert Gerrard Guardian of the Lands, and Petr of Leonard Counsel, the third part of the Mannor of S. O. sixteen Messuages, six hundred Acres of Land, two hundred Acres of Pasture, twelve Acres of Wood, one Milne and twenty Shillings Rent, with the Appurtenances, in S. O. as the Dower of the said L. of the Endowment of the said L. in time past her Husband, &c.

And the said R. by J. B. his Attorney cometh and saith, that the said N. and I. ought not, &c. because they say that the said N. and I. have sufficient in their custody, to wit, at the City of S. fourteen Messuages, four Gardens, and one Close of Pasture with the Appurtenances to the value of one and twenty pound fifteen Shillings and eight pence, by the year in Basford, one Messuage, fifty Acres of Land, two Acres and an half of Meadow, and Common of Pasture for twelve Cattel, and an hundred and fifty Sheep in the Common there, to the value of six and twenty Shillings eight pence by the year in Wilk; And

Tenant saith
that the De-
mandant had
sufficient land
of the Heir
in Socage re-
nture in their
possession in
lieu of the
third part of
the Land in
demand.

in the Queens one Messuage, fifty Acres of Land, twelve Acres of Meadow, and four Closets and an half of Pasture with the Appurtenances to the value of seven and twenty shillings and eight pence by the year, in the County of Summerset; And in Windford one Messuage threescore Acres of Land, twelve Acres of Meadow, and twenty Acres of Pasture with the Appurtenances to the value of twenty seven shillings and eight pence by the year, in the County of Devon. of the Lands and Tenements of the same their which are held in Socage, and which descended to him by Hereditary descent from the said I. his Father in Fee simple, whereby they may have and retain in their own hands, to the value of the Dower aforesaid, for the Dower of the said G. And this, &c. whereupon he prayeth Judgement; And that the said I. of these Lands and Tenements to be held in Socage may be endowed, &c.

And the said N. and I. say that they by any thing before allegeded from having their said Dower out of the Mannor, Tenements, and Rent aforesaid in their demand aforesaid specified, ought not to be barred, because they say that the said part of the said Mannor of S. O. And the said fifteen Messuages, &c. with the Appurtenances, contained in the said demand, are clearly of the yearly value of five pound eight shillings and four pence. And say further, that they are not sufficient in their custody of the Lands and Tenements of the said Mannor, which are held in Socage, because they say that four and forty Messuages, fourteen Gardens, and one Close of Pasture, with the Appurtenances in the City of new S. are of the yearly value of forty pound, without that that they are of the clear yearly value of one and twenty pound sixteen shillings and eight pence, as the said R. above allegeded; And that the said Messuage, fifty Acres of Land, two Acres and an half of Meadow in B. aforesaid, and the Common Pasture for twelve Cattle, and one hundred and fifty Sheep in the Common Mannor, in the County of Wilts, are but of the yearly value of twenty shillings, without that that they are of the clear yearly value of six and twenty shillings and eight pence, as the said R. above allegeded; And the said Messuage fifty Acres of Land, twelve Acres of Meadow, and four Acres and an half of Pasture containing by estimation eighteen Acres of Pasture with the Appurtenances in the County of Summerset, are but of the clear yearly value of thirty shillings, without that, that they are of the clear yearly value of forty shillings. As the said R. hath above allegeded; And that the said two Acres of Pasture in the said County of Summerset, are of the clear yearly value of ten shillings; And that they are held of Countesse of Salisbury by Knights service, without that that they are held in Socage, as the said R. hath above allegeded; And this, &c. whereupon they pray Judgement, and the Dower aforesaid in the Mannor, Tenements, and Rent aforesaid, with the Appurtenances in the demand aforesaid, specified to be adjudged to them, &c. several issues upon the several traverses.

The Plaintiff saith that the Lands in the demand are of such a value in certain, and not sufficient, &c. and shews also the several values of the Socage lands, and takes several traverses upon the values thereof alleged by the Defendant, and also traverseth the tenure in Socage, shewing of whom they are held in Knights service.

P. 31. and 32. H. 8. Rot. 108. Essex ss. Margaret Warner, who was the wife of I. W. demandeth against T. W. her Dower of Lands in D. the Tenements and Demands below; And the said M. saith that the said T. ought not to have the said Tenements aforesaid with the Appurtenances, whereof, &c. because she saith that the said T. into the Tenement aforesaid with the Appurtenances, whereof, &c. by the said I. W. her late Husband entered, and took possession in the same Tenements with the Appurtenances, until the day purchasing of the Original Writ of the same M. to wit, day Ad. and from the same day continued; And this, &c. whereupon he prayeth Judgement, and her Dower of the Tenements aforesaid with the Appurtenances, together with her Damages to her to be adjudged, &c.

Counterplea of view in Dower.

And the said T. saith, that he by any thing before allegeded from having the said Tenements aforesaid with the Appurtenances ought not to be compelled,

pelled, because hee saith that hee entred not into any Tenements with the Appurtenances in R. aforesaid, whereof, &c. by the said I. W. as the same hath above alledged; And this, &c. Therefore thebe, &c.

M. 12. Ja. Rot. 612. Counter Plea in biets in Dower, that the Defendant dyed seized, and issue, that hee dyed not seized, &c.

M. 19. and 20. Eliz. Rot. 1376. M. 11. Ja. Rot. 845. before Coke c. Walter Sheldon against Sheldon, 02 751. M. 28. and 29. Eliz. Rot. 1327.

Tenant in Dower pleads a Release of the Demands of the Lands in Demand.

M. 16. Ja. Rot. 3242. Brownlow Ebor. ff. A. Ward who was the wife of I. W. demandeth against John Ward the third part of three Messuages, in Claworth, the Tenant saith, that shee ought not to have Dower, because hee saith, that at the year before the death of her Husband; And before the writ purchased, to wit, the eighteenth day of June, 1617. at C. aforesaid, by his deed sealed, and shewen, acknowledged to have had of the said I. now Tenant Administrator, &c. 02 of his Father, all such summe and summes of money, goods, and chattels, and all those rights whatsoever due to the said A. by the death, without inventory of the said I. her Husband lately deceased, 02 by the Provincial custome of York, 02 in any other respect whatsoever, which said summes of money, goods, and chattels, &c. hee acquitted and released the said Administrator; And further by the said writing hee released the Tenant then of the Tenements aforesaid with the appurtenances, whereof, &c. being thereof seized in his demesne, as of Fee, of such actions, quarrels, Debts, trespasses summes of money, and reckonings, and such demands, &c. and prapes Judgement, if Dower, &c. And the said A. saith, that shee by any thing before alledged, ought not to be barred from having her Dower out of the Tenements aforesaid with the Appurtenances, because hee saith, that shee is, and from the time of the making of the said writing of release was a lay woman and illiterate; and that at the same time of the making of that writing, divers summes of money, and divers goods, and chattels, and other personal rights were due and accretwing to the said A. by the said I. her late Husband, which said summes of money, goods, and chattels, and other personal rights aforesaid; The same A. of the said I. now Tenant then had and received, and that the said writing of Release here brought into Court was declared good to the said A. as a writing of Release containing only a Release to the said I. now Tenant of the aforesaid summes of money, goods, and chattels, and other personal rights, Debts, Actions, and demands personal to the said A. by the said I. now Tenant after the death of the said I. W. her late Husband, due, and not to release the title of Dower of the said A. in the Tenements aforesaid with the appurtenances, and any Action or demand for the same, And so the same A. saith, that the said writing of Release aforesaid, containing the release of the title, Action, and demand of the Dower of the said A. &c. and in the Tenements aforesaid with the Appurtenances, is not her deed. And this shee prapeth may be enquired of by the Countrey; And the said I. likewise, &c. this cause was agreed before any Trial.

A Petit Cape awarded in dower, where the tenant made default at the return of the writ of view. Note that this form of entering of the petit Cape is very rarely used, because the Philizer ought to award the petit Cape in this case, and not the Prothonotary, and to enter it upon the Roll accordingly, according to the new book of entries, the petit Cape, fol. 399. b. pl. 12. and dower, fol. 399. pl. 7.

T. 18. Ja. rot. 3225. Brownlow, Otherwise as it appeareth in Easter term last past, Rot. 1620. it is thus contained, *Lincoln ff. Francis Warner*, and *A. his wife*, by *Rowland Jenkes* his Attorney, demand against *George Fines William Knight*, the third part of five messuages, one hundred Acres of Land, thirty acres of Meadow, and forty acres of Pasture with the appurtenances in *Wilberne*, as the dower of the said A. of the indowment of the

Robinson her late husband, by writ of the said Lord the King of dower, whereof she hath nothing, &c. And the said G. by Lawrence Lither his Attorney, commeth and prayeth view of the tenements aforesaid, with the appurtenances, whereof, &c. And hath it, &c. the same day is given to the parties aforesaid here, &c. until in Odo. Tric. and in the mean time, &c. And now here at this day, to wit, at the aforesaid eight days of the holy Trinity came the same F. and A. by their said Attorney, And the said G. the fourth day of the Plea being solemnly called, came not, but made default. Judgement that the third part aforesaid tenements with the Appurtenances, bee taken into the hands of the King that now is, and the said G. bee summoned, that hee bee here from the day of St. Mich. in fifteen daies to hear thereof, his judgement, &c.

H. 18. Ja. rot. 734. *Gulston. Kanc. ss. E. B. widow, who was the wife of M. P. demandeth against T. P. and Fr. his wife, thirty three acres of Land with the appurtenances in H. &c. Tenure Gavelkinde; and the same T. and F. by A. their Attorney come and demand the view of the aforesaid thirty three acres of Land, with the appurtenances whereof, &c. And the said Elizabeth saith, that the said T. and F. the view of the said thirty three acres of Land, with the Appurtenances, whereof, &c. ought not to have, because she saith, that the said T. and F. into the said thirty three acres of Land with the Appurtenances, by the said M. her late husband entred. And this she is ready to versey, whereof the prayeth judgement, and her dower of the same thirty three Acres of Land with the Appurtenances, to her to be adjudged*

Henden.

And the said T. and F. say, that the plea of the said Elizabeth above pleaded, and the matter therein contained, are not sufficient in Law to repel them the said T. and F. from having the view of the said thirty three acres of Land, with the Appurtenances, whereof, &c. And that they to the said Plea in manner and form aforesaid pleaded, need not, nor are bound by the law of the land to answer. And this they are ready to versey, whereupon for defect of the sufficiency of the Plea of the said Elizabeth in this behalf, the said T. and F. pray Judgement, and view of the same thirty three acres of Land with the Appurtenances, whereof, &c. to bee adjudged to them, &c. the demandant joyneeth in demurrer; And as before prayeth judgement, and her dower of the same thirty three acres of Land with the Appurtenances, whereof, &c. to bee adjudged, &c. See 2. E. Fol. 19. 9. E. 4. 6. 13. E. 3. 21. title view 44. E. 3. 31. 1. H. 5. 11. 18. E. 3. 55. Hill, 2. E. 3. Fitz. title view 80. 82. 87. 93. 99. 101. 146. 166. whereupon the premises being seen, and by the Court here fully understood, it seemed to the said Justices here, that the said Plea of the said Elizabeth above in bar pleaded, and the matter therein contained is sufficient in law, to repel the said T. and F. from having the view of the said thirty three acres of Land with the Appurtenances, whereof, &c. Therefore it is considered, that the said T. and F. further answer to the said demand, &c. for such counter-plea was adjudged a bar by the Court.

E. 19. Ja. rot. 1672. *Brownlow. Eff. x ss. E. S. widow, who was the wife of C. G. G. demandeth against I. Seam Gent. the third part of the Mannor of O. with the Appurtenances, and I. messuage. 2. Mills. 7. Dove-houses, three hundred acres of Land, &c. with the Appurtenances in B. and G. her dower, whereof she hath nothing. And the said I. by H. P. his Attorney, commeth and voucheth thereof to warranty, Edw. Goldingham Gent. Son and heir of the said C. who is present here in Court in his proper person*

Pas. 31. and 32. H. 8. rot. 108.
H. 12. Ed. 3. title view, the demandant saith, that the feme entred and not the husband, and the feme, as in that case, &c. and view granted.
M. 4. Ed. 3. fol. 34. pl. 34 the like cases
M. 9. Ed. 3. fol. 42. pl. 68. M. 19. and 20. Eliz. rot. 1376. Mich. 15. Jac. rot. 612.

Count in dower,

Voucher who declares against the vouchee.

and freely the said third part of the mannor, tenements, and Rents aforesaid with the Appurtenances, to him doth warrant, &c. And hereupon the said *Eliz.* demandeth against the said *E.* tenant, by his own warranty, the third part of the Mannor, Tenements and Rents aforesaid with the Appurtenances, as her dower, of the indowment of the said *C.* her late husband, &c.

Harri.

The vouchee pleads views per descent, M. 38. and 38 *Eliz.* rot. 1208. A. against S. such a judgement, *minusur* 5 Feb. 41. *E. 112* but the writ of error is not determined.

And the said *Edward* tenant by his warranty saith, that hee with the warranty aforesaid, as son and heir of the said *C.* his father, ought not to be charged, because hee saith, that hee hath not, nor at the day of purchasing of the Original writ of the said *Eliz.* nor any times afterwards, had any Lands or tenements by hereditary descent in Fee-simple from the said *C.* his father. And this hee is ready to versey, whereupon hee prayeth judgement, if hee as Son and Heir of the said *C.* his father, ought to be charged with the said warranty.

Leo. Burton for the vouchee.

The Tenant saith, that hee had sufficient, and issue thereupon.

And the said *John* saith, that hee by any thing before alleadged, ought not to be barred from having his said warranty, because hee saith, that the said *Edward* tenant, by his warranty the day of purchasing the Original writ of the said *Eliz.* to wit, the nineteenth day of *May*, *Anno Regis*, &c. 18. had sufficient lands and tenements by hereditary descent in Fee-simple, from the said *C.* his father, whereof the said third part of the mannor, tenements, and rent aforesaid, hee can warrant to the said *I.* to wit, at *B.* and *O.* aforesaid. And this hee prayeth may be enquired of by the Countrey; And the said *E.* likewise, and because neither the said *I.* nor the said *E.* do gainesay the dower of the said *Elizabeth*, of the mannor, tenements, and Rents aforesaid, with the Appurtenances whereof, &c. nor have above alleadged any thing to bar the said *E.* from having her said dower of the Mannor, Tenements, and Rents aforesaid with the Appurtenances, therefore it is considered; that the said *Elizabeth*, recover her seisin against the said *John* of the third part aforesaid, with the Appurtenances. And the said *I.* in mercy &c. but let execution thereof stay, untill the issue between the said *I.* and the said *E.* be determined, &c. And as to try that issue, the Sheriff is commanded that he cause to come here *Gr. Trin.* twelve, &c. Note that the *versey* *nire facias* ought to be speciall, reciting the special matter.

The demandant hath judgement with a cesset executio; Special ve. fac.

Dower for the moiety of Gavelkind lands.

The tenant saith, that they are not of the tenure of Gavelkind. Pas. 19. Jac. protestation. A good exception to the form of the plea, which diligently observe.

E. 19: Ja. rot. 1840. *Gulston*. Between Bridgland and Post. And the same T. and F. by F. M. their Attorney came, And protest that the said *M.* was not seised of the aforesaid thirty three Acres of Land with the Appurtenances, whereof, &c. of such an estate that hee could endow the said *Elizabeth* thereof, for Plea the same T. and F. say that the said *E.* her dower, of the moiety of the said thirty three acres of Land with the Appurtenances, whereof, &c. ought not to have, because they say, that the said thirty three acres of Land are not of the tenure and nature of Gavelkind, as the said *E.* by her declaration aforesaid above supposeth; And this they are ready to versey, whereupon they pray judgement if the said *E.* her dower of the moiety of the said thirty three Acres of Land with the Appurtenances ought to have, &c. Towse; And it was moved by Henden for the demandant, the said protestation was merely idle and surplusage. And Hobart and the Justices agree that it was ill, or at least like Nettle-John in Portage, nor good, nor ill, but it was taken from the Plea by the command of the Court at the Barre; And Henden said, that the Tenant ought to have said, that the land was Gavelkind and descendable by the Common Law to the eldest Son, and travers the Gavelkinde in the demand, the Court held that the travers was better, and a more exact form of pleading, but that form is good affects for there is

is an affirmatibe and a negative; And the demandant replyeth as followeth, and the said Elizabeth saith, that she of her said dower of the moiety of the thirty three Acres of Land with the Appurtenances, ought not to be barred, because she saith, that the said thirty three acres of Land are of the tenure and nature of Gavelkind, as she hath above alleadged; And this she prayeth may be enquired of by the Countrey, And the said T. and F. the wife. Wherefore, &c. the ve. fac. ret. Cra: Trin. the nisi prius 8. Mich. at the Assizes in Kent at Maidstone.

Note that the ve. fac. was awarded to the neighbourhood where the lands lay, and not to the body of the County, Autumn 1621

The Tenant would have compelled the Demandant to probe the Land to be Gavelkinde, Houghton the Justice of Assize, you say an Negative for the Lands are not Gavelkinde, probe you the contrary, otherwise the Jury ought to finde for the demandant, and because the Tenant proved not his Plea, the Jury found for the Demandant, and at a day in Court the Demandant had Judgement, and a writ of Seisin; Therefore it is considered, that the said Jacob her Heiress against the said T. and F. of the moiety aforesaid with the Appurtenances; and the said T. and F. in mercy, &c. And the writ of Seisin awarded returnable. Octab. Pur.

Mercy.

H. 27. Elizabeth rot. 1623. Dower of a third part of two parts of sixteen acres of Land, &c. in three parts to be divided, and the advowson of the third part of two parts of the Church of P. in three parts to be divided as her dower, &c.

H. 37. Elizabeth rot. 2629. Dower of the third part of four parts, of three parts of twelve messuages, &c.

M. 6. Ja. rot. 618. Brownlow. Ebor. St. Joban. Foliamb, otherwise Brownlow widow, G. F. otherwise B. Esquire, By Tho. Gayer their Attorney demand against T. R. Knight, the third part of two mes. two cot, two tofts, two gardens, fifty acres of land, and fifty acres of pasture, with the appurtenances in T. otherwise T. as her dower of the endowment of the said G. her late husband, &c.

Dower and demand therein.

And the said T. by Thomas West his Attorney, cometh and saith that before the said G. F. otherwise Brownlow, late Husband, &c. had any thing to the Tenements aforesaid with the Appurtenances, whereof, &c. and between the intermarriage between the same G. Fotherw. B. her Husband, &c. and the said Joan celebrated one Godfrey Foliambe late of C. in the County of Staff. Shp. was seized of the Tenements aforesaid with the Appurtenances, whereof, &c. in his demesne as of Fee; And being so thereof seized, the same G. F. of C. the seventeenth day of May, An. R. 1. at T. otherwise T. aforesaid demised to one Cicily Brownlow, two Closes in T. otherwise T. aforesaid commonly called the Wilm Closes, containing forty Acres of Land (parcel of the Tenements aforesaid in the demand specified) and also the remainder of the said Tenements with the Appurtenances, to have and to hold to the same Cicily her Executors and Assignes, from the Feast of Pentecost then next following unto the end and Term of sixty years then next ensuing, fully to be compleat and ended, peelding and paying yearly and every year, during the aforesaid Terme of sixty years to the said G. F. of C. his heirs and assignes for the same two Closes forty shillings of lawful mony of England; and peelding and paying yearly every year, during the Terme aforesaid to the same G. F. of C. his heirs and Assignes for the remainder of the Tenements aforesaid with the Appurtenances, to be paid six shillings eight pence of lawful mony of England; by virtue of which demise the same Cicily in the morning of the said Feast of Pentecost, into the Tenements aforesaid with the Appurtenances entered.

The Tenant pleads in bar of the Dower, that before the espousals a stranger was seized thereof in Fee for sixty years paying Rent, and conveyed the Reversion thereof to himself.

To hold from a time to come.

Several Reservations.

The lessee entered.

Grant of the
Reversion by
deed, by the
lessor in Fee, to
the husband of
the Demian-
dant.

Attornment
by the lessee
for years, to
the grant.

Lessee for years
marries,

The Husband
grants his
whole term to
the Father of
the tenant in
the writ.

The grantee of
the lessee of his
term grants his
interest to the
tenant in the
Writ.

Attornment to
that grant by
the particular
tenant.

The assignee of
the lessee for
years grants o-
ver his estate.

treb; and was thereof possessed; (the reversion thereof to the said G. F. of C. his Heirs and Assignes belonging) and the same Cicily so being thereof possessed, and the same G. F. of C. of the reversion of the Tenements aforesaid with the Appurtenances in his demesne as of Fee being seized, the said G. F. of C. afterwards, to wit, the first day of May, Anno Reg. &c. four at T. otherwife T. aforesaid by his writing sealed with his seal bearing date the same day and year, granted the Reversion of the Tenements aforesaid with the Appurtenances to the same G. F. otherwife B. late Husband, &c. To have and hold to the said G. her late Husband, his Heirs and Assignes for ever; To which said grant of the Reversion aforesaid, by the said G. F. of C. to the said G. late Husband, &c. in form aforesaid made, the same Cicily being possessed of the Tenements aforesaid with the Appurtenances, whereof &c. in form aforesaid, afterwards at T. otherwife T. aforesaid to the said G. late Husband, &c. Attoznd, by reason of which said grant and Attornment the said G. late Husband, &c. was seized of the Reversion of the Tenements aforesaid with the Appurtenances, whereof, &c. in his demesne as of Fee; And the same G. being to thereof seized; and the same Cicily of the same Tenements with the Appurtenances, whereof, &c. being as is premised possessed, the same C. B. afterwards at T. otherwife T. aforesaid took to Husband William Johnson, whereupon the said W. and C. in their right of the same C. were possessed of the Tenements aforesaid with the Appurtenances, whereof, &c. And being thereof possessed, the same W. afterwards, to wit, the one and twentieth day of April, Anno Reg. &c. 22. at T. otherwife T. aforesaid granted his whole right, title, interest, and term of years, which hee had then to come of and in the Tenements aforesaid with the Appurtenances, whereof, &c. to one T. Esq. Father of the said T. R. Knight, by vertue of which said grant the said T. R. the Father afterwards, to wit, the second day of December, Anno Reg. 23. at T. otherwife T. aforesaid, granted his whole state, right, title, interest, and term of years, which hee had to come in the Tenements aforesaid with the Appurtenances, whereof, &c. to the same T. R. Knight, by vertue of which grant, the same T. R. Knight into the Tenements aforesaid with the Appurtenances, whereof, &c. entred, and was thereof possessed, and being thereof so possessed; And the same G. F. otherwife B. being as is premised seized of the Reversion aforesaid, of the said Tenements with the Appurtenances, whereof, &c. in his demesne as of Fee; The same G. F. otherwife B. late Husband, &c. afterwards, to wit, the twenty fifth day of June, Anno Reg. &c. 34. at T. otherwife T. aforesaid, by his certain writing sealed, bearing date the same day and year, granted to me Hercules Foliambr, the Reversion of the Tenements aforesaid with the Appurtenances, whereof, &c. To have and hold to the said H. F. his Heirs and Assignes for ever; To which said grant of the Reversion aforesaid by the same G. F. otherwife B. late Husband, &c. in form aforesaid made, the same T. R. Knight, being possessed of the Tenements aforesaid with the Appurtenances, whereof, &c. afterwards at T. otherwife T. aforesaid Attoznd himself to the said H. by vertue of which said grant and attornment, the same H. was seized of the Tenements aforesaid with the Appurtenances, whereof, &c. in his demesne as of Fee; and the same H. being so thereof seized; And the same T. R. Knight, being possessed of the Tenements aforesaid with the Appurtenances, whereof in form aforesaid the same T. R. Knight afterwards, to wit, the seven and twentieth day of May, Anno Reg. &c. 38. at T. otherwife T. aforesaid; granted to one G. R. his whole state, right, title, interest, and term of years which hee then had to come in the Tenements aforesaid with the Appurtenances, whereof, &c. by vertue of which said grant the said G. into the Tenements aforesaid with the Appurtenances, whereof, &c. entred; and was, and yet is thereof possessed; and the same G. being to thereof possessed; and the same H. F. of the Reversion of the Tenements aforesaid with the Appurtenances, whereof, &c. being seized in his demesne

of &c. Coetane H. F. afterwards, to wit, the twenty fourth day of A-
 Anno Reg. &c. 39 at T. otherwile T. aforesaid by his certain writing with
 Seal of the said H. F. sealed, bearing date the same day and year, granted to
 said T. R. Knight the same Reversion of the Tenements aforesaid with
 Appurtenances, whereof, &c. To have, and to hold to the said T. R.
 Knight, his heirs and Assigns for ever, to which said grant of the Reversion
 aforesaid by the said H. to the said T. in form aforesaid made; the same G. of
 Tenements aforesaid with the appurtenances, whereof, &c. in form a-
 foresaid, being possessed, afterwards at T. otherwile T. aforesaid assigned
 himself to the said T. R. Knight. By virtue of which said grant and assign-
 ment, the same T. R. Knight, was, and yet is seized of the reversion
 of the tenements aforesaid, with the appurtenances, whereof, &c. in his
 demesne, as of fee. And the same T. R. Knight, in said writ, that the
 term of sixty years are not yet ended and determined, And that he hath
 living in the Tenements aforesaid with the appurtenances, whereof, &c. un-
 der the reversion after the same term of sixty years (besides the said Kent
 by the said demise, the same T. prays judgement, that the said so-
 le judgement of the Court here recover her seisin against the said
 of the third part of the reversion aforesaid, and of the third part of
 said Kent reserved upon the said demise, for the tenements aforesaid
 with the appurtenances, whereof, &c. during the same term; And that she
 may not have execution of the third part of the Tenements aforesaid with the ap-
 purtenances, whereof, &c. in possession until the said term of sixty years be end-
 ed. And the said Joan saith, that she by any thing before alleged from
 her execution of the third part of the Tenements aforesaid with the ap-
 purtenances, whereof, &c. the third part of the reversion, and the third part of the rent during the
 term of sixty years, she should not have execution of the third part of the lands in possession, until the said term be ended
 appurtenances, whereof, &c. as in possession till the same term of sixty years,
 the plea of the said T. above supposed be ended, ought not to be hindered,
 because she saith that well and true it is, that the said G. F. late of C. in the
 County of Staff. Esquire, was seized of the Tenements aforesaid, with the
 appurtenances in his demesne as of fee. And being so thereof seized demised to
 the said Cicily, B. the wife's Tenements with the appurtenances; To have
 and occupy to the said C. her executors and assigns from the said feast of Pen-
 cost then next following, until the end and term of sixty years from thence
 next following, and fully to be compleat and ended, paying there-
 for yearly during the same term, to the said G. F. of C. and his assigns for the
 same two cuses, forty shillings; And for the remainder of the Tenements
 aforesaid, with the appurtenances, whereof, &c. fifty six shillings
 and eight pence of lawful money of England, and that by virtue of the said
 demise, the said Cicily on the morrow of the feast of Pen. cost into the tenements
 aforesaid with the appurtenances entered, and was thereof possessed, the
 reversion thereof to the said G. F. and C. and his heirs thereof belonging; and
 that the said Cicily being thereof so possessed. And the same G. F. of C. the re-
 version of the tenements aforesaid with the appurtenances, whereof, &c. being
 seized, the same G. F. of C. by his said writing granted to the same G. late Hus-
 band, &c. the reversion of the tenements aforesaid, with the appurtenances,
 whereof, &c. To have and to hold, to the said G. late husband, &c. and to his
 heirs for ever. And that the said Cicily being possessed of the Tenements
 aforesaid, with the appurtenances whereof, &c. Assigned her self to the said
 grant, and that by virtue of the said grant and attornment, the same G. late
 husband, &c. was seized of the reversion of the tenements aforesaid with
 the appurtenances in his demesne as of fee. And that the same G. being
 thereof so seized, and the said Cicily being possessed of the Tenements aforesaid
 with the appurtenances, whereof, &c. in form aforesaid, the same
 C. took to husband the said W. Johnson, and that the same W. J. being

The Grantee
 in Reversion
 grants over
 the Reversion
 in Fee to the
 Tenant in the
 Writ.

Attornment to
 that grant by
 the particular
 tenant.
 Tenant aver-
 reth that the
 term therein is
 not expired;
 And that he
 hath nothing
 but the rever-
 sion, and
 the rent refer-
 ved, and the
 aforesaid de-
 mise, and
 prays that the
 demandant
 may recover
 by the judge-
 ment of the
 Court.

The demand-
 ant confess-
 eth, the grant
 of the term,
 and of
 the reversion,
 &c. but saith
 further, that
 before the de-
 mandant assign-
 ed over the lease
 for years, he
 accepted of
 the grant of
 the reversion
 in fee, by
 which the
 lease was de-
 termined
 when by the
 tenant is seized
 in fee of the
 lands in pos-
 session

possessed of the tenements aforesaid with the appurtenances whereof, &c. granted to the said T. R. the father, his whole interest and term of years which he then had to come of and in the Tenements aforesaid with the Appurtenances, whereof, &c. And that the said T. R. the father by virtue of the said grant into the Tenements aforesaid with the Appurtenances, whereof, &c. entered, and was thereof possessed; And to being thereof possessed, granted to the said T. now Tenant his whole interest and term of years which he then had to come of and in the Tenements aforesaid with the Appurtenances, whereof, &c. And by virtue of the said grant, the same T. R. Knight into the Tenements aforesaid with the Appurtenances entered, and was thereof possessed; And the same T. R. Knight to being thereof possessed; And the said G. F. late Husband, &c. of the Reversion of the Tenements aforesaid with the Appurtenances, whereof, &c. in form aforesaid, being seized, the same G. late Husband, &c. by his writing aforesaid, sealed with his Seal, granted to the said Hercules F. the Reversion of the Tenements aforesaid with the Appurtenances, whereof, &c. To have and to hold to him and his Heirs for ever; And the said T. R. Knight, the said grant (being as aforesaid made) then being seized of the Tenements aforesaid with the Appurtenances attorned himself; And that by virtue of the said grant and Attornment, the same H. was seized of the Reversion of the Tenements aforesaid with the Appurtenances in his demesne as of Fee; As the same T. R. Knight hath above alleged; But the said Joan further saith, that the same H. F. being so seized of the Reversion of the Tenements aforesaid with the Appurtenances, whereof, &c. in form aforesaid, and the same T. R. of the same Tenements with the Appurtenances, whereof, &c. in form aforesaid being possessed, the same H. afterwards and before the day of purchasing of the original writ of the same Joan, and before any assignment made of the said Term of and in the Tenements aforesaid, with the Appurtenances, whereof, &c. by the said T. R. Knight now Tenant to the said G. R. infeoffed the said T. R. Knight (now Tenant) of the same Tenements with the Appurtenances, whereof, &c. To have and to hold to him and his Heirs for ever, by virtue of which Feoffment, the said demise by the said G. F. of Croxton, to the said Cicily as aforesaid made, was ended and determined, whereby the said T. R. was, and yet is seized of the Tenements aforesaid with the Appurtenances in his demesne as of Fee, in possession, without that, that the said T. R. Knight granted to the said G. R. her whole state, right, title, interest, and term of years which hee had then to come of and in the Tenements aforesaid with the Appurtenances, whereof, &c. in manner and form as the said T. R. Knight hath above alleged; And this she is ready to prove, whereupon for that the same T. R. Knight the title of the Dower of the said Joan of, and in the Tenements aforesaid with the Appurtenances, whereof, &c. above acknowledgeth, prayeth Judgement and Execution of the third part of the Tenements aforesaid with the Appurtenances, whereof, &c. in possession to be adjudged her; &c.

And the said T. R. Knight as before saith, that he granted to the said G. R. his whole state, interest, and term of years which hee then had to come of and in the Tenements aforesaid with the Appurtenances, whereof, &c. in manner and form as the said T. R. hath above alleged. And of this he putteth himself upon the Country; And the said Joan sheweth; And because the said T. R. Knight, now Tenant, the Dower of the said Joan doth not gainsay of and in the Tenements aforesaid with the Appurtenances, whereof, &c. nor to bar her the said Joan from having her Dower in the same Tenements, hath any thing above alleged; It is considered that the said I. recover her seisin against the said T. R. Knight, now Tenant of the third part aforesaid with the Appurtenances; And the said T. R. Knight in mercy, &c. but let execution thereof cease, until the said issue between the parties aforesaid above joined

Replication
that before any
assignment of
the term made
by the Tenant
he accepted
of the Reversion
in Fee
which deter-
mined the
Lease.

The Assign-
ment of the
term traversed
before the ac-
ceptance of the
Reversion in
Fee.

Issue upon the
travers.

Mercy.
Judgement
that the De-
mandant reco-
ver her Dower
of the third
part of the Te-
nements but
cease execution
till the issue
be tried.

shall be tried; And as to the trying of that issue the Sheriffe is commanded that he cause to come here in Cra. Pur. At which day the Jury between the said parties, &c. is respited, &c. The Jury found that the said T. R. granted to the within named Geo. R. his whole state, interest, and Terme of years which he had then to come of and in the Tenements within written with the Appurtenances, in manner and form as the said T. R. within for himself in his Replication hath alleged, but no Judgment is entred upon the Roll.

Issue given for the Tenant:

El. 3. Eliz. Rot. 818. Mid. ss. *Thomasin Best*, who was the Wife of *John Best* Gentleman, by *T. L.* her Attorney, offered her self the fourth day against *R. Best* of a Plea, of the third part of one Messuage called *M.* four Cottages, &c. with the appurtenances in the Parish of *St. Martins* in the Fields, of the indowment of the said *L.* her late Husband, &c. and hee came not, &c. And at another time appeared here in Court, and pleaded therein with the said *T.* and put themselves upon a Jury of the Country before the Justices here, to wit, at *Westminster*, in *Ottob. Hill*, last past, at which day here came the said *Thomasin* by her Attorney aforesaid, and the said *R.* although solemnly called came not, as the said Justices here then recorded, whereupon it was then commanded the Sheriffe, that hee should take the third part of the Tenements aforesaid, with the appurtenances, into the hands of the said Lady the Queen, and that he should summon by good Summoners the said *R.* that he should be here at this day, to wit, from Easter daies then next following, to hear thereof their judgement; and the Sheriffe now returned, That he had taken, &c. and summoned, &c. therefore it is considered, that the said *T.* should recover his seisin against the said *R.* of the third part of the Tenements aforesaid, with the appurtenances, as the Dower of the said *T.* by default, &c. and the said *R.* in mercy, &c. whereupon the said *Thomasin* saith, that the said *John*, late Husband of the said *Thomasin*, of whose indowment, &c. the day wherein he dyed, was seised of the Tenements aforesaid, with the appurtenances, and of such an estate therein dyed, seised with the appurtenances, whereof, &c. in his Demesne as of Fee; and prayeth her Dower from the time of his said death to be adjudged her, &c. And because it is unknown what damages the said *T.* hath sustained by occasion of the detaining of the said Dower, nor how much the Tenements aforesaid, with the appurtenances are worth by the year, according to the true worth thereof, nor how much time is elapsed from the time of the death of the said *John*, it is commanded the Sheriffe, that by the Oath of twelve, &c. he diligently inquire, if the said *John* dyed seised of the Tenements aforesaid, with the appurtenances in his Demesne, as of his Fee, or of Fee only, and how much time is elapsed from the time of the death of the said *John*, and how much the Tenements aforesaid, with the appurtenances are worth by the year, according to the true value thereof, and also what Damages the aforesaid *Thomasin* sustained by occasion of the detaining of the said Dower; and the inquisition which, &c. he make known here in the morrow of the holy *Trinity* under his Seal, and the Seals, &c. And likewise the said *Thomasin* prayeth a Writ of the said Lady the Queen, to have full seisin of the third part of the Tenements aforesaid, with the appurtenances, to be held by mets and bounds in severalty to be directed to the Sheriffe of the County aforesaid, and it is granted her returnable here at the said Terme, at which said day here came the said *Thomasin* by her said Attorney, and the Sheriffs, to wit, *T. R.* and *C. D.* now return, that he by verue of the said Writ to him directed, commanded the Bailiffe of the Liberty of *Westminster*, to whom belongeth the execution of the said Writ; which said Bayliffe answered the said Sheriffe, that the twenty fourth day of *May* last past, that he caused to be had and assigned to the

A Petit cape in Dower awarded, where the Tenant maketh default at the return of the Habeas Corpus in the Bench.

See the title of Petit Cape in the new Book of Entries, fol. 399. Pl. 12.

A Writ of inquiry awarded;

said *Thomasin* the third part of the Tenements aforesaid, with the appurtenances, to wit, of two Cottages, &c. with free ingress and regress into, and from the same at all necessary times whatsoever, to hold to the said *Thomasin* in fevralty, by metes and bounds as to him it was commanded, &c. And the same Sheriff also returned a certaine Inquisition before *W. C.* Bayliffe of the Liberty of *Westminster* aforesaid, the day and year abovesaid, by vertue of his said Command by the Oath of Twelve, &c. taken; by which it was found that the said *I.* at the time of his death dyed seized of the Tenements aforesaid, with the appurtenances in his Demeasne as of Fee; and by the same inquisition it was further found, that the Tenements aforesaid are worth by the year in all issues, besides reprises according to the true value thereof, twenty eight pound, and that the said *I.* dyed the eleventh day of *January*, Anno 2. *Eliz.* and that one whole year four moneths and three daies are elapsed, in the mean time from the day of the death of the said *I. B.* and the day of the taking of the said Inquisition, and that the said *Thomasin* hath susteineid damage by occasion of the detaining of her said Dower to two pence, therefore it is considered that the said *Thomasin* recover against the said *I.* her Damages, to wit, the value of the said Tenements aforesaid, with the appurtenances, from the time of the death of the said *John*, which doth amount to eleven pound and ten shillings, and the third part of one half penny; and also her Damages by occasion of the detaining of her said Dower, besides the value aforesaid, to two pence, and by the said Inquisition above found, which said intire Damages in the whole, doe amount to twelve pound; and the said *R.* in mercy, &c.

Mersey.

E. 43. Eliz. rot. 302. Brownlow, Hereff. Joao Symes Widow, who was the Wife of *James Hutchinson*, by *John Emery* her Attorney demandeth against *John Hayste* the third part of one Messuage, one Garden, one Orchard, and one Acre of Land, with the appurtenances, in *H.* her Dower, or the indowment of the said *I.* her late Husband, &c.

And the said *John*, by *Thomas Gaddesden* her Attorney cometh, and saith, that the said *Joao* her Dower of, and in the Tenements aforesaid, with the appurtenances ought not to have, because he saith, that the said *James* her late Husband in his life time, and at the time of his death was seised of one Cottage, and one shop called a Smiths Shop with the appurtenances in *H.* aforesaid in his Demeasne as of Fee, and that one *John Upton* was then seised of another Cottage, with the appurtenances in *H.* aforesaid, adjoyning to the same Cottage and Shop of the said *James*, on the South part thereof, in his Demeasne as of Fee, and one *I. Pond* then being seised of the said Garden, Orchard, and Acre of Land, with the appurtenances, whereof &c. in his Demeasne as of Fee, which said Shop and Cottage after the death of the said *I.* were framed, built up, and made into the said intire Messuage, which is now demanded by the said *Joao* against the said *John* in forme aforesaid, by the name of one Messuage, and as to that part of the Messuage, with the appurtenances of new built upon the ground of the said Cottage, which was lately of the said *John*, being on the South side of the said Messuage, and parcel of the said Messuage above demanded; and as to the said Garden, Orchard, and one Acre of Land, with the appurtenances of the said *I. P.* the same *I. H.* saith, that

Never seised in Dower for part, and as to another part he pleads an Assignment, and acceptance of Rent, &c. and issue upon the acceptance.

Pl. 34. *Eliz. Rot. 1957. c. B. ow. low* Suffix between *B. and B.* the Tenant pleads an Assignment of Rent, with clause of Distress in Bar, and acceptance thereof, the Demandant saith, that it was further said, that if the Demandant could not have her Rent quietly, then to have Dower, as she ought to have had before the grant, and sheweth that the Rent was in arrears, and that she did distress, and they rescued such distress, whereby she could not enjoy her Rent, &c. whereupon she brought Dower, *Mors in Leg.* and Judgement for the Demandant. *T. 15. Eliz. 711. 613.*

the same *James*, late Husband, &c. nor at the day wherein he married the said *Joan*, nor at any time afterwards was seised of the same South part of the said Messuage newly built upon the ground of the said Cottage, nor of the said Garden, Orchard, and Acre of Land, with the appurtenances of such an estate, that he could indow the said *Joan* thereof, and of this hee putteth himself upon the Country; and the said *Joan* likewise; and as to the rest of the said Messuage, that is to say, that part of the said Messuage, built upon the ground of the said Cottage, and Shop of the same *James*, late Husband, &c. being the rest of the said Messuage above demanded in the life time of the said *James*, and at the time of his death, being the Cottage and Shop of the said *I. H.* in forme aforesaid, saith, that the said *James*, late Husband, &c. was seised of the said Cottage and Shop, with the appurtenances, in his Demeasne as of Fee; and so being thereof seised, afterwards, and before the day of Purchasing of the original Writ of the said *Joan* at *H.* aforesaid dyed, of such his estate thereof seised, after whose death the Cottage and Shop aforesaid descended to one *I. H.* as Son and Heir of the said *James*, whereby the said *Joan* into the Cottage and Shop aforesaid with the appurtenances entered, and was thereof seised in his Demeasne as of Fee, and so being thereof seised before the day of purchasing the original Writ of the said *Joan*, to wit, the tenth day of *Novemb.* Anno Reg. &c. 5. at *H.* aforesaid, assigned to the said *Joan*, then being sole, a certaine yearly Rent of four shillings of lawful money of *England*, issuing, and to be leaved, and taken out of the said Cottage and Shop, with the appurtenances, to have, hold, and yearly receive the said yearly Rent of four shillings to the said *Joan*, and her Assignes yearly during the Natural life of the said *Joan*, at the Feast of *St. Michael* the Arch-angel, in full allowance and satisfaction of the Dower of the said *Joan*, to her, out of the Cottage and Shop aforesaid, after the death of the said *I.* hapning, which said Assignment of the Rent aforesaid, in forme aforesaid made, the same *Joan* then and there accepted, and from the said *Joan* the said yearly Rent of four shillings in forme aforesaid, granted in full satisfaction and recompence of her said Dower, to her the same *Joan* out of the Cottage and Shop aforesaid, with the appurtenances, hapning for many years now elapsed at *H.* aforesaid hath received, and had according to the said agreement, and was of the said Annual Rent of four shillings seised in her Demeasne as of Fee, for terme of her life; and the same *Joan* being so thereof seised, and the same *I. H.* of the Cottage and Shop aforesaid, with the appurtenances in forme aforesaid being seised, and the said *I. P.* of the Cottage aforesaid, in forme aforesaid being seised; and also the same *I. P.* of the said Garden, Orchard, and one Acre of Land, with the appurtenances in forme aforesaid being seised, the same *I. P.* afterwards, and before the day of purchasing of the original Writ of the same *Joan*, of the same Cottage, with the appurtenances, infeoffed the said *Joan*, by vertue of which feoffment the said *I. H.* was seised of the said Cottage, Garden, Orchard, and one Acre of Land with the appurtenances in his Demeasne as of Fee; and being so thereof seised, the said *I. H.* laid flat to the earth, the said two Cottages and Shop of new builded, erected, and made upon the ground, where standing, and erected, the said Messuage above demanded, and the same *I. H.* being so seised of the said Messuage of new built, as in forme aforesaid, and of the said Garden, Orchard, and Acre of Land, with the appurtenances, the same *I.* before the day of purchasing of the original Writ of the said *Joan* at *H.* aforesaid, dyed of such an estate therein seised. After whose death the intire Tenements aforesaid, with the appurtenances above demanded, descended to one *I. H.* as Son and Heir of the said *Joan*, whereby the said *James* into the Tenements aforesaid, with the appurtenances above demanded entered, and was thereof seised in

his Demeasne as of Fee; and the same *Ja.* the Son being thereof so seised; and the said *Joan* of the yearly Rent of four shillings in forme aforesaid, issuing out of the said Cottage and Shop in forme aforesaid being seised, the same *James*, Son of *John* before the day of purchasing of the said original Writ of the said *Joan*, incoffed the said *John Hurst* in the Tenements aforesaid, with the appurtenances above demanded, to hold to him and his Heirs for ever. By vertue of which Feoffment the same *I. H.* was: and yet is thereof seised in his Demeasne as of Fee, and this he is ready to verify; whereupon he prayeth Judgement, if the said *Joan* ought to have her Dower, &c.

Spurling.

By protesti-
on that he did
not assign, and
for Plea that
she did not
accept, &c.

And the said *Joan* as to the said Plea of the said *I. H.* as to the rest of the Messuage aforesaid, with the appurtenances, whereof &c. built upon the ground of the said Cottage and Shop, which were of the said *Jo.* late Husband, &c. saith, that she by any thing in the said Plea alledged, from having her Dower of the same rest of the said Messuage, with the appurtenances ought not to bee barred, because protesting that the said *I. Hutchinson* did not assigne to the same *Joan* the said yearly Rent of four shillings, as the said *I. Hurst* hath above alledged; for Plea the same *Joan* saith, that she did not accept of the said *Jo. Hutchinson* the said yearly Rent of four shillings in full satisfaction, and allowance of the whole Dower of the said *Joan* to her; the same *Joan* out of the Cottage and Shop aforesaid, with the appurtenances, hapning in manner and forme, as the said *I. H.* hath above alledged; and this she prayeth may bee inquired of by the Country, and the said *I. Hurst* likewise. Therefore twelve, &c.

Abridgement
of the Demand
in Dower. See
the new Book
of Entries, fol.
234.b. Dower
endemand, 1.
2, 3, 4.
Pas. 24. *Eliz.*
rot. 1337. *M.*
10. *Ja* rot. 1959
K. against R. the
like pas. 9. *14* rot
311. Pas. 3.
7. rot. 2718.
Lincoln int. T.
and M. A.
bridgement of
demand in
Dower after
view.
Not informed.
T. 5. *Ja* rot. 520
Pas. 5. *Ja* rot.
1417. Abridge-
ment of de-
mand in Dower
after the
grand cape.
Mercy.
The Writ of
Seisin awarded
Return there-
of.

M. 7. I. rot. 257. Waller, Suff. fl. Dorothy Smith VVidow, who was the VVife of *Alexander Smith*, by *T. S.* her Attorney demanded against the said *Thomas Paine* the third part of one Acre of Land and an half, with the appurtenances in *Stutton*, as her Dower of the indowment of the said *A.* her late Husband, &c. And it is to be known that the said *D.* in the Court of the said Lord the King, here made her demand in the same VVrit of the third part of one Messuage, one Garden, three Acres of Land, one Acre of Meadow, and one Acre of Pasture, with the appurtenances in *Stutton*, and now abridgeth that demand to the third part of one Acre of Land and an half, with the appurtenances, &c. See *M. 7. H. 8. rot. 618.* Abridgement of demand in Dower after Issue joyned upon the view.

And the same *Tho.* by *R. D.* his Attorney saith, That he is not informed by the same *T.* his Client of, to give any answer for the same *T.* to the said *D.* in the said Action, and saith nothing else therein, whereby the same *D.* remaineth against the said *T.* thereof without any defence; therefore it is considered, that the said *D.* recover her seisin against the said *T.* of the third part aforesaid, with the appurtenances, to hold to her in severalty by metes and bounds, &c. and the said *T.* in mercy, &c. And hereupon the said *D.* prayeth a VVrit of the said Lord the King to be directed to the Sheriffe of the County aforesaid, to give full seisin to her of the third part aforesaid, with the appurtenances, to hold to her in severalty by metes and bounds, &c. And it is granted to her returnable here in eight daies of St. *Hillary*, &c. at which day here came the said *D. E.* by her said Attorney, and the Sheriffe, to wit, *T. W.* Knight now returneth, that he by vertue of the said VVrit to him directed, caused to be delivered to her full seisin of the third part of one Acre of Land and an half in *S.* afore-

aforesaid, to wit, of one halt Acre and one Rood, wanting five Poles, lying in *S.* aforesaid, between the Lands of the said *T. P.* on the East & West sides, one head thereof, abutting upon the salt water on the South side, and the Kings High-way on North; to hold to the said *B.* in fevralty by metres and bounds, as by the said *VVrit* to him it was commanded, &c.

M. 13. Ia. rot. 853. Brownlow, Suffex ff. Tho. Barber, and Jane his VVife, by T. S. their Attorney, demanded against Tho. Beard the third part of the Mannor of W. with the appurtenances, and four Mess. two Cottages, four Barnes, four Gardens, four Orchards, one hundred Acres of Land, one hundred Acres of Pasture, and one hundred Acres of VVood, with the appurtenances, in Woodmancote, and A. alias A. as the Dower of the said I. of the endowment of the late T. B. her late Husband, &c.

See *Mich. 13. & 14. Eliz. rot. 1941.* between *Came & Game*, Barre in Dower, that the Heir granted an Annuity to the Defendant, and had Meat, Drink, and Lodging, in recompence of the Dower & acceptance, &c. And the said *T. B.* now Tenant, by *John Row* his Attorney cometh, and saith, that the same *Tho. B.* and *Jane* the Dower of the said *Jane*, of the Mannour and Tenements aforesaid, with the appurtenances, whereof &c. ought not to have, because he saith, that after the death of the said *T. B.* her late Husband, &c. and before the day of purchasing of the said original *VVrit* of the said *T. B.* and *I.* to wit, the twenty six day of *March*, Anno Reg. &c. 8. at *W.* aforesaid assigned to the said *T. B.* and *I.* after inter marriage between the said *T. B.* and *I.* celebrated, two Messuages, one Barne, one Orchard, ten Acres of Land, thirteen Acres of Meadow, and forty Acres of Pasture, with the appurtenances, in *W.* aforesaid, parcel of the Mannour and Tenements aforesaid, with the appurtenances, whereof the said *T. B.* late Husband of the said *I.* dyed seised in his Demeasne as of

dyed seised, in lieu of the Dower and acceptance issue no assignmēt. *Mich. 28. & 29. Eliz. Rot. 1212.* it was pleaded in Bar to the Dower, that the Husband purchased of him and his Wife a rent charge for their lives, in recompence of her Dower, &c. and that the Wife after the death of her Husband accepted of the said Rent charge for her life, &c. and issue upon the acceptance.

Fee, and which after the death of the said *T. B.* late Husband, &c. descended to the said *T. B.* now Tenant, as Son and Heir of the said *T. B.* late Husband, &c. To have and to hold to the said *Jane*, and her Assignes, for terme of life of the said *Jane*, in the name of the whole Dower of the said *Jane*, to her out of the Tenements aforesaid, with the appurtenances, whereof, &c. after the death of the said *T. B.* her late Husband, &c. hapning, to which said Assignment the said *T. B.* and *Jane* then and there agreed, and the said Assignment in full satisfaction and recompence of the whole Dower of the same *I.* to her out of the Mannor and Tenements aforesaid, with the appurtenances; whereof, &c. after the death of the said *T. B.* her late Husband, &c. hapning, then and there accepted, and this he is ready to verifie; and thereupon prayeth Judgement, if the said *T. B.* and *Jane* the Dower of the said *Jane*, out of the Mannor and Tenements aforesaid, with the appurtenances, whereof &c. ought to have, &c.

John Shirley.

And the said *T.* and *Jane* say, that they by any thing before alleadged, from having the Dower of the said *Jane* of, and in the Mannour and Tenements aforesaid, with the appurtenances, whereof, &c. ought not to be barred, because protesting that they to the Assignment aforesaid, in forme aforesaid supposed to be made, did not agree, nor ever accepted of that

Assignment in Dower of parcel of the Lands in demand, and acceptance thereof by the Demandants, before the Commencement of the Suit pleaded in Bar. *M. 40. & 41. Eliz. rot. 1720.* Assignment of parcel of the Lands, and that the Husband

Protests no acceptance.

For Plea no
assignment.

Rejoinder as
in his Bar.

Note the re-
view.

Count upon
the appearance
upon the perit
Cape, where
the tenant to
save his default
pleads his im-
prisonment,
and issue there-
upon.

Assignment, as the said *T. B.* now Tenant hath above alleadged; for Plea they say, that the said *T. B.* now Tenant, did not assigne to the said *T. B.* and *Jane*, after Espousals between the said *T. B.* and *J.* celebrated the said two Messuages, &c. (As in the Plea) with the appurtenances in *W.* afore said, to have and to hold to the same *Jane*, and her Assignes for terme of life of the said *Jane*, in the name of the whole Dower of the said *Jane*, to her out of the Mannour and Tenements afore said, with the appurtenances, whereof &c. after the death of the said *T. B.* her late Husband hapning, as the said *T. B.* now Tenant hath above alleadged, and this they are ready to verifie; whereupon they pray Judgement, and the Dower of the same *Jane* of the Mannour afore said, with the appurtenances, whereof &c. together with the Damages by reason of the detaining of the said Dower to them to be adjudged, &c. And the said *T. B.* now Tenant, as before saith, that he did assigne to the said *T. B.* and *J.* after the Espousals between the said *T.* and *J.* celebrated, the afore said two Messuages, one Barne, one Stable, &c. in *W.* afore said. To have and to hold, to the same *Jane* for terme of the life of the same *Jane*, in the name of the whole Dower of the same *Jane*, to her out of the Mannour and Tenements afore said, with the appurtenances, whereof &c. after the death of the said *T. B.* late Husband, &c. hapning as the said *T. B.* hath above alleadged, and of this he putteth himself upon the Country, and the said *T. B.* & *Jane* likewise; Therefore the Sheriffe is commanded, that he cause to come here in the morrow of *All Souls*, Twelve &c. of the Neighbour-hood of *W.* by whom &c. And who neither &c. to recognize &c. because as well &c. See *Trin. 8. Eliz. Rot. 1311.* between *Strange-man* and *Luskyn*, Bar, that the annual Rent was assigned by the Heir to the Demandant.

T. 15. Eliz. rot. 1045. Otherwise as it appeareth in Mich. Term. Anno Reg. 14. it is contained thus, Suff. H. A. Lovell widowe by I. S. her Attorney demands against Tho. Lovell Gent. four messuages with the appurtenances in L. as her dower of the indowment of Tho. Lovell her late husband, &c. And the said *T.* by *T. W.* his Attorney, and saith that the said *A.* her dower of the Tenements afore said, with the appurtenances, whereof &c. of the indowment of *T. L.* her late husband, &c. ought not to have, because he saith, Nunc; seises, quod dower, &c. And of this he putteth himself upon the Countrey, and the said *A.* likewise. Therefore it is commanded the Sheriffs that he cause to come here in the morrow of *All Souls* twelve, &c. another *Vc. fac. returnable 8. Hillarii.* At which day the Jury, &c. until this day, that is to say, untill quinsque Pasche then next following, unless the Justices of the said Lady the Queen, assigned to take the assizes in the County afore said, by form of the Statute afore said upon *V* Wednesday the fourth day of September, &c. last past at *Sr. Edmunds Bury* in the County afore said, shall first come. And now here at this day came the said *A.* by her Attorney afore said. And the said Justices of Assizes before whom, &c. sent here their recozd in these words, Afterwards the day and place within contained before, &c. came the within named *A. L.* by her Attorney within named, and the said *T. L.* solemnly called, came not, but made default. Judgement the third part afore said, be taken into the hands of the said Lady the Queen, And the said *T. L.* be summoned, that he be here in the morrow of the holy Trinity, to hear thereof his Judgement, &c. and now here at this day, to wit, the morrow of the holy Trinity, come here into the Court, as well the said *A.* by her Attorney afore said, as the said *T. L.* in his proper person, and hereupon the same *A.* prayeth seisin of the third part afore said, with the appurtenances afore said, by default afore said to her to be adjudged, &c.

And the said T. saith, that the said default ought not prejudice him in this behalf, because he saith, that before the said Wednesday, &c. upon which day the said default was recognised upon him, &c. to wit, the third day of March, Anno Regni, &c. 15. the same T. L. at Norwich in the County of Norff was imprisoned, and there in the prison of the said Lady the Queen, by three whole daies then next following was detained; and so the same T. saith, that hee by occasion of the said imprisonment was hindered, that hee could not by any means come at the same day, by reason of the said imprisonment to make his defence in the same plea. And this hee is ready to shew, whereupon hee prayeth judgement, if the said default ought to hurt him in this behalf, &c.

And the said A. saith, that shee by any thing before allegeded, from having her seisin of the third part of the tenements aforesaid with the appurtenances, ought not to be repelled or retarded, because shee saith that the said T. L. the aforesaid Wednesday, &c. upon which day the said default was recognised against him, &c. was at Bury St. Edmunds aforesaid, and the whole night following, so that if hee would have been present, hee might have made his defence to the said plea, without that the said T. L. the said third day of March at the City of Norwich aforesaid, was imprisoned, and there in the prison of the said Lady the Queen, by three whole daies then next following was detained. As the said T. L. hath above allegeded; And this hee is ready to shew, whereupon shee prayeth judgement, and her seisin of the third part of the tenements aforesaid with the appurtenances by default of the same T. to her to be adjudged, &c.

M. 11. H. 6. rot. 176. the party and his attorney were hindered by flux of water, h. 11. h. 6. rot. 119. the like.

And the said T. L. as before saith, that hee the aforesaid third day of March, at the City of Norwich aforesaid was imprisoned, and there in the prison of the said Lady the Queen, by three whole daies then next following was detained, as hee hath above allegeded. And of this hee putteth himself upon the Country. And the said A. likewise. Therefore it is commanded to the Justices of the City of Norwich, that twelve, &c. T. 3. H. 6. pl. 3. De default, there it is adjudged a good plea, (that hee was in prison) to save his default. See h. 10. h. 6. rot. 103. ve. fac. upon the like issue. Note, that in such case, if the tenant make default at the Assizes, the demandant at a day in Court, shall have judgement and seisin, and not a petit Cape, and so it was in h. 8. h. 6. rot. 129.

C. Werw. h. 10. h. 6. rot. 396. the like.

And the same W. as before saith, that the tenements aforesaid with the appurtenances, are and at the day of purchasing of the Original writ of the said I. and E. and always afterwards from the time, &c. were of the tenure and nature of Gavelkinde; as hee hath above allegeded. And of this hee putteth himself upon the Country; And the said I. and E. likewise. Therefore, &c. twelve, &c. See the like day between the said parties, E. 39. Eliz. rot. 487. c. Brownlow T. 30. Eliz. rot. 157. and see Mich. 30. and 31. Eliz. rot. in the like case between H. and his wife, and G. it was adjudged by the Justices of the Common Bench, that of lands in Gavelkinde, the same cannot make her election, to have her dower at the Common Law, or by the custom; And here the husband and wife are barred of their election, for the prescription is as well in the negative as in the affirmative, to wit, that women ought to be endowed of the moiety of the Lands; for Justice Parson saith, as the inheritance is quitted by the custom, so is the dower. And further said, that if the prescription be in the negative, then hee shall have no election; And upon a demurr judgement was given against the demandants, M. 16. Jo. 10. 353 B. and others against E. such pleas in dower of lands in Gavelkinde.

Non Tenure
pleaded in a
batement for
part of the
lands in de-
mand.

Quere.

T. 17. Jac. rot.
3038. Norrif.
se Dey and his
wife demand
against I. C. the
third part of
half the part of
one messuage
with the Ap-
purtenances in
W. as her
Dower, Quere
of such de-
mand.

Assignment of
Lands in leiv
of Dower to
the residue.

E. 2. Ja. rot. 502. c. Brownlow Surry, J. H. and Magdalen his wife by E. Clerk
their Attorney demand against I. C. Gent. the third part of one Messuage, one
hundred and fifty Acres of Land, ten Acres of Meadow, and fifty Acres of Pas-
ture with the Appurtenances in H. as the Dower of the same M. of the endow-
ment of the said I. B. &c. And the same I. C. in his proper person, &c. and as to
acres of Land, 8. Acres of Meadow, with the Appurtenances of the Tenements
aforesaid, in the said demand above specified, whereof, &c. Parcel saith that the
said I. H. and M. the dower of the same M. in the same Tenements with the
Appurtenances parcel cannot render, because he saith that he is not Tenant
of the Freehold of the same fifty Acres of Land, and eight Acres of Meadow
with the Appurtenances, nor was at the day of purchasing of the said
Writ of the same I. and M. or any time afterwards; But one David H. is
and the same day, and always afterwards was Tenant of the same fifty
Acres of Land, and eight Acres of Meadow, with the Appurtenances, as of
his Freehold, and this he is ready to benefit, whereupon as to the said fifty
Acres of Land, and eight Acres of Meadow with the Appurtenances: The
same I. C. prayeth Judgement of the same Writ, &c. And as to the said Mes-
suage, and one hundred Acres of Land, two Acres of Meadow, and fifty
Acres of Pasture of the Tenements aforesaid with the Appurtenances in the
demand aforesaid above specified residue, the same I. C. saith that the same
H. and M. the Dower of the same M. of the same Tenements residue with the
Appurtenances, whereof, &c. of the endowment of the same I. her late Hus-
band, ought not to have, because he saith that long before the said I. her Hus-
band, &c. had any thing in the Tenements aforesaid with the Appurtenances,
whereof, &c. in the demand aforesaid above specified; One I. B. Father of the
said I. B. late Husband, &c. was seized of five Messuages, five Barns, five
Orchards, one hundred and sixty Acres of Land, ten Acres of Meadow, and
eighty Acres of Pasture with the Appurtenances in H. and C. in the County
of S. whereof the Tenements aforesaid with the Appurtenances in the de-
mand aforesaid above specified are parcel in his demesne, as of Fee; And so
to the same I. B. the Father was seized of four pound rent, issuing out of
certain Lands and Tenements in F. and H. in the County of Sussex, in his
demesne as of Fee; And the same I. B. the Father being so thereof seized
F. aforesaid married one Margaret, which said I. B. the Father and M. the
lawful issue between them the said I. B. late Husband of the same M. and
afterwards, to wit, the twentieth day of Jan. Anno Reg. 26. the same I. B.
the Father, &c. at H. aforesaid died of the same five Messuages, five Barns,
five Orchards, and one hundred and sixty Acres of Land, ten Acres of Mea-
dow, and eighty Acres of Meadow, and four pound rent with the Appur-
tenances, in form aforesaid seized, after whose death the Tenements
and Rent aforesaid with the Appurtenances, did descend to the same I. B. the
Husband, &c. as to the Son and Heir of the same I. B. the Father, &c. by
which the same I. B. the Son into the Tenements aforesaid, with the Appur-
tenances entered, and was thereof, and of the Rent aforesaid seized in his demesne
as of Fee; And being so thereof seized, the same I. B. the Son afterwards, to
wit, the fifth day of June, Anno Eliz. Reg. 34. at H. aforesaid assigned and
rendered to the same Margaret the said Messuages, one hundred Acres of Land,
two Acres of Meadow, and fifty Acres of Pasture with the Appurtenances
in H. aforesaid now in demand; And also one Barn, one Orchard, parcel of
the Tenements aforesaid, with the Appurtenances, whereof the said I. B.
The Father died seized as is premised; And whereof the said Messuage,
one hundred Acres of Land, two Acres of Meadow, and fifty Acres of
Pasture with the Appurtenances in the first barre of the same I. B. mentioned
are parcel. To have and to hold to the same M. as her Dower to her out of
the whole Tenements and Rent aforesaid with the Appurtenances of the endow-
ment of the said I. B. Father of the late Husband of the same Marg. happening,
which

which said Tenements with the appurtenances so to the said Margaret assigned the same Marg. for and in the name of the whole Dower to her out of the whole Tenements and Rent aforesaid, with the Appurtenances of the endowment of the said I. B. Father of the late Husband of the said M. then and there took and accepted; And into the same Tenements with the Appurtenances so assigned entered, and was thereof seized in her demesne as of her freehold for term of her life; And the same I. B. the Son was seized of the residue of the whole Tenements and Rent aforesaid with the Appurtenances to his demesne as of fee, and of the Reversion of the Tenements aforesaid with the Appurtenances by the same I. the Son, to the same M. in form aforesaid, assigned to the same M. for her Dower, as of fee and right; And the same M. of the Tenements aforesaid with the Appurtenances to her as is promised, assigned for her Dower, being in form as is aforesaid seized; And the same I. B. the Son of the Reversion of the same Tenements with the Appurtenances as of fee and right in form aforesaid, being seized, the same I. B. the Son afterwards, to wit, the first day of Aug. Anno Eliz. Reg. 32. at H. aforesaid by his certain Indenture made between the same I. B. the Son of the one part, and the said I. C. of the other part, which other part with the seal of the said I. B. the Son signed the same I. C. here into the Court bringing, whose date is the same day and year, granted the Reversion aforesaid with the Appurtenances to the same I. C. and his Heirs for ever, to the use of the same I. B. his Heirs and Assignes for ever; To which said grant of the Reversion aforesaid the same Marg. to wit, in the life time of the said I. B. the Son afterwards, to wit, the fifth day of January, Anno, Eliz. Reg. 33. aforesaid at H. aforesaid then Tenant of the freehold of the Tenements aforesaid with the Appurtenances to her for her Dower as aforesaid assigned, assigned, and agreed, whereby the same I. C. was seized of the Reversion aforesaid, as of fee and right; And the same I. being so thereof seized, the same Marg. afterwards, to wit, the fifteenth day of April, Anno, &c. Angli primo and Secundo, 36. at H. aforesaid dyed, after whose death the same I. C. into the Tenements aforesaid with the Appurtenances which the said Marg. for her Dower as aforesaid assigned, entered, and was thereof seized in his demesne as of fee; And the same I. C. further saith that the same Tenements with the Appurtenances by the same I. B. the Son assigned to the said Marg. for her Dower aforesaid at the time of the said assignment made, were of the yearly value of the third part of the whole Tenements and Rent aforesaid, whereof the same I. B. the Father dyed seized, &c. and not more, nor of greater yearly value; and this he is ready to verify, whereupon he prayeth Judgement if the same I. H. and M. the Dower of the same Magdalen thereof of the endowment of the said I. her late Husband ought to have, &c. Shurley. And the same I. and M. as to the said Plea of the said I. M. in quashing of the writ aforesaid above pleaded, say, that that writ as to fifty Acres of Land, and eight Acres of Meadow with the Appurtenances in the same Plea above specified, for the reason before alleged ought not to be quashed, because they say that the day of purchasing of the original writ aforesaid, to wit, the eighteenth day of M. Anno Reg. 1. aforesaid, the same I. C. was Tenant of the same fifty Acres of Land, and eight acres of Meadow with the Appurtenances, as by the same writ is above supposed; and this they pray may be inquired of by the Country, &c. And as to the same other Plea of the same I. C. as to the said Messuage one hundred Acres of Land, two Acres of Meadow, and fifty acres of Pasture of the Tenements aforesaid with the Appurtenances residue, the same I. H. and M. say, that they by any thing in the same Plea, before alleged from having their said Action for the Dower of the said M. in the residue of the same Tenements with the Appurtenances ought not to be barred, because they say that well and true it is, that the same I. B. the Father was seized of the same five Messuages, five Barns, five Meadows, one hundred and fifty Acres of Land, ten acres of Meadow, and eighty acres of Pasture with the appurtenances in H. and C. aforesaid,

Grant of the Reversion of Land, assigned in Dower.

Tenant in Dower attorneth to the Grantee of the Reversion, &c.

Tenant in Dower dyeth.

Issue upon the Non-tenure, that the Tenant was Tenant of the Freehold at the day of purchasing the Writ.

said, and of the same four pound rent, issuing out of the lands and tenements in F. and H. in his demesne as of fee; and that the same I. B. married the same M. And that the said I. and M. had lawfull issue betwixen them, the same I. B. late husband, &c. And that the same I. B. the father at H. aforesaid dyed, of such an estate, of and in the same five mes. five Barns, five Orchardes, one hundred and fifty acres of Land, ten acres of meadow, and eighty acres of pasture, and four pound rent seized, after whose death the same tenements, and rent aforesaid with the appurtenances, descended to the same I. B. late husband, &c. as to the son and heir of the same I. B. the father, &c. wherby the same I. B. the son, into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee, as the same I. C. hath above alledged.

But the same I. H. and M. further say, that the said I. B. the son being of the tenements aforesaid with the appurtenances, in form as aforesaid, seised, afterwards, to wit, the day of Anno Reg. &c. at H. aforesaid demised to the same Margaret the same messuage, one hundred acres of Land, two acres of meadow, and fifty acres of pasture with the appurtenances in H. And also the said barn and orchard parcel, &c. to the said Margaret to hold and occupy to her and her assigns, for one whole year then next following; And so from year to year, so long as it shall please both parties. By vertue of which demise the same M. into the tenements aforesaid with the appurtenances entered, and was thereof possessed. And being so thereof possessed. And the reversion thereof to the same I. B. late husband, &c. belonging, the same I. B. late husband, &c. within one year after the same demise, to the same M. in form aforesaid made, granted the same reversion to the said I. C. As the same I. hath in the bar aforesaid above alledged. By vertue wherof, the same I. C. was seised of the reversion of the tenements aforesaid with the appurtenances in his demesne as of fee. And being so thereof seised. And the same M. being as aforesaid possessed of the tenements aforesaid with the appurtenances, the same M. afterwards, to wit, the same fifteenth day of Aprill, Anno I. abovesaid at H. aforesaid, dyed without that the said I. B. the son assigned, and rendred to the same M. the said messuage, one hundred acres of Land, two acres of meadow, and fifty acres of pasture, with the appurtenances in H. aforesaid, now in demand; And also the same Barn, and Orchard parcel of the tenements aforesaid, with the appurtenances of which, the said I. B. the father dyed, seised; To have and to hold to the same M. as her dower to her, out of the whole tenements and rents aforesaid, with the appurtenances of the indowment of the said I. B. the father, late husband, &c. having in manner and form as the said I. C. hath above alledged. And this they are ready to verify, whereupon they pray Judgement, and the dower of the said M. of the said messuage, one hundred acres of land, ten acres of meadow, and fifty acres of pasture residue of the tenements aforesaid with the appurtenances, in the demand aforesaid, together with her damages, by occasion of the detaining of that dower to her to be adjudged &c.

And the said I. C. as before said, that the said I. B. the son assigned, and rendred to the said M. the said messuage one hundred acres of Land, two acres of meadow, and fifty acres of Pasture, with the appurtenances in H. aforesaid, now in demand. And also the said Barn and Orchard parcel of the tenements aforesaid, with the appurtenances of which, the same I. B. the father dyed seised. To have and to hold to the same M. as her dower, to her out of the whole tenements and rent aforesaid, with the appurtenances of the endowment of the said I. B. the father, late husband, &c. having in manner and form as he hath above alledged. And of this he putteth himself, &c. And the same I. and M. likewise. Wherfore as well to try that issue as the other issue, betwixen the parties aforesaid above joyned, the Sherriffe is commanded that he cause to come here Cra. Trin. xii. &c.

T. 1. J.

T 2. Ja. Rot. 1816. Brownlow. Som. H. M. S. Widow who was the Wife of I S Knight, by N S. her Attorney demandeth against I W Esquire, the third part of the Rectory of the Parish Church of N with the Appurtenances in N as her Dower of the Indowment of the said I S her late Husband, &c.

Demand in Dower of the third part of the Rectory. M. 33. or 34. Eliz. Rot.

1712. the like demand where the Writ was the *Lib. tent.*

A P D the same J by E M, his Attorney cometh and saith, that the said M her Dower of the Rectory aforesaid with the Appurtenances, of the Indowment of the said I S, her late Husband, &c. ought not to have, because he saith, that the said I S late Husband of the same M, was seised of the Rectory aforesaid, with the Appurtenances, whereas, &c. in his demesne as of fee, and being so thereof seised, the same I S afterwards, to wit, the five and twentieth day of Dec. Anno Eliz. Reg. 21. gave and granted the Rectory aforesaid, with the Appurtenances to one R W, to have and to hold the same Rectory with the Appurtenances, to the same R, his Heirs and Assignes for ever, by pretext of which said gift and grant aforesaid, the same R was seised of the Rectory aforesaid, with the Appurtenances, whereof, &c. in his demesne as of fee, and being so thereof seised, the same R W afterwards at N aforesaid dyed, of such his estate thereof seised, after whose death the Rectory aforesaid, with the Appurtenances, whereof, &c. descended to the same I W, as Son and Heir to the said R W, whereby the said I W into the Rectory aforesaid, with the Appurtenances entered, and was thereof seised in his demesne as of fee, and so being thereof seised, afterwards, to wit, the two and twentieth day of October, Anno Dom. 1565. at London in Consistory place there, before D L Doctor of Law, and Judge of the Delegate, together with and by the expresse assent and consent of W M of the same Colledge with him judicially, and in judgement sitting, and of and with the Counsell of the skilfull of the Law had given, to whom in this behalfe they communicated the matter, and all being called who were in this behalfe to be called, a divorce was concluded on from thence therein to be made between the same I S and the said M, and the same D L with the assent, consent, and advise abovesaid, did adjudge the same I S, and M S oherwise P to be separte from Bed and Board, and mutuall cohabitation, and use of conjugall rightes, by reason of a Libell of Adultery, by the same M committed, and in the cause proved, and to be divorced one from another. and with effect did then and there pronounce and declare them separated and divorced, and afterwards the same I S at N aforesaid dyed, and this he is ready to verifie, when, where, and how the Court of the King here shall consider, whereupon he prayeth judgement, if the same M her Dower of the Rectory aforesaid, with the Appurtenances of the Indowment of the same I S her late Husband in this behalfe ought to have, &c. Harris.

The Tenant pleads in Bar that the Wife was in the life time of her Husband, divorced from her Husband, *At baro & mensse*, for cause of Adultery by sentence.

By which divorce the rye of matrimony is not dissolved.

And afterwards in Mich. Jac. 2. The opinion of that Court was, that this Plea was no Plea, for it is but a particular divorce, there are four absolute divorces.

M 44. and 45. Eliz. Rot. In the Queens Bench between S and F, the Wife of H T in a prohibition, F was divorced from her Husband for Adultery, and afterwards S pleads a Release in the Court Ecclesiasticall, for a Legacy given to him by an estranger, made to him by the Husband before the divorce, which was disallowed of in the Ecclesiasticall Court upon a prohibition, and first for that Doctor C and H affirmed, that in the Cannon Law, a divorce for cause of Adultery, doth not dissolve the rye of matrimony, but only separte, a menle cethoro, for that neither of them may marry again, but if they will they may cohabit together, notwithstanding the divorce without any new marriage, secondly if the man and wife

Suppens a- gainst Totty.

that is a good cause of separation by sentence : Thirdly the Justices hold, that a divorce for cause of adultery shall not avoid the marriage, but that they shall remain man and wife, and that the release is good, and those books that say that the woman shall receive her goods after divorce, are to be intended after divorce for precontract or other cause that dissolves the marriage, and the prohibition will well lie.

Demand in
Dower.

M 38. and 39. Eliz. rot. 1208. Otherwise as it appeareth in Easter Term, Anno Eliz. Reg. 38. rot. 1313. It is thus contained, Suffex. ff. M A Widow, who was the Wife of Jo. A Esquire, by T S their Attor-
ney demandeth against O S and I A the third part of thirty acres of Land,
thirty acres of Pasture, and forty acres of Wood, with the appurtenan-
ces, in C as her dower, of the endowment of the same I her late Husband,
&c.

Tenants as
A signees of
the Fee of the
Husband,
vouch to war-
ranty the son
and heir of the
husband, who
hath nothing
by descent.
Shew the fe-
offment with
warranty to
have voucher.

Feoffment in
fee unto two.

One Joynte-
nant released
in fee unto
the other,
Feoffment
made to the
Tenants in the
Precipe.

A P D the same O and I by T W their Attorney, &c. and say, that the said
Jo. A late Husband, &c. was seised of the Tenements aforesaid, with the
appurtenances, whereof, &c. in his Demesne as of fee : And so being thereof
seised, after espousals between the same I and the said M celebrated, to wit, the
two and twentieth day of December, Anno Eliz. Reg. 15. by his certain wri-
ting, which the same O and Ja. with the Seal of the same Jo. sealed, here in
Court do bring, whose date is the same day and year, of the same Tenements,
with the appurtenances, infeoffed one A B to have and to hold to the same A
and his Heirs for ever, as by the same writing more fully appeareth. By
virtue of which feoffment, the same A was seised of the Tenements aforesaid,
with the appurtenances, whereof, &c. in his Demesne as of fee : And being
so thereof seised, afterwards and before the day of purchasing of the original
Writ of the same N, to wit, the first day of November, Anno Eliz. Reg. 25.
of the same Tenements, with the appurtenances, infeoffed I C and I B to
have and to hold to the same I and I and their Heirs for ever. By virtue of
which feoffment the same I and I were seised of the Tenements aforesaid,
with the appurtenances, whereof, &c. in their Demesne as of fee : And be-
ing so thereof seised, afterwards and before the day of purchasing of the original
Writ of the same M, to wit, the twelfth day of May, Anno Eliz. Reg. 26. of
the same Tenements, with the appurtenances, whereof, &c. infeoffed I B,
and M M to have and to hold to the same I and M, and their Heirs for ever.
By virtue of which feoffment the said I and M were thereof seised in their
Demesne as of fee : And being so thereof seised, the same I afterwards
and before the day of purchasing of the original Writ aforesaid, to wit, the
eight day of M, Anno Eliz. Reg. 31. at C aforesaid, by his certain writing of
Release, which the said O and I, with the Seal of the said I B sealed, here in
Court do bring, whose date is the same day and year, for him and his Heirs re-
mised, and for ever released, to the same M and his Heirs, his whole right,
claim, and interest of and in the Tenements aforesaid, with the appurtenan-
ces, whereof, &c. by precept whereof the same M was wholly seised of the Te-
nements aforesaid, with the appurtenances, whereof, &c. in his Demesne as
of fee : And being so thereof seised, afterwards and before the same day of pur-
chasing of the original Writ aforesaid, to wit, the thirteenth day of Novem-
ber, Anno 31. abovesaid, of the same Tenements, with the appurtenances,
infeoffed the same O and I, to have and to hold to the same O and I and the
Heirs of the same O for ever. By virtue of which feoffment the same O and
I were seised of the Tenements aforesaid, with the appurtenances, whereof,
&c. that is to say, the same O in his Demesne as of fee, and the same I in his
Demesne as of his free Tenement, for term of the life of the same I.

And the same O and I further say, that the said I A late Husband, &c. in
his life time had issue one I A his eldest son, and that sufficient descended to
the

the said I A the son, as son and Heir of the said I A his father, from the same I his father, by hereditary descent in fee simple, to the value of the third part aforesaid, to wit, at A in the said County of S: And so the same O and I as the Assignes of the said A B, call thereof to warranty the same I A the son and heir to be summoned in the County aforesaid, so that he may be here in the morning of the holy Trinity, by aid of the Court, &c. the same day is given to the parties aforesaid here, &c. And now here at this day come as well the said Mary, as the same O and I by their Attorneys aforesaid: And the Sheriff hath done nothing thereupon, nor sent his writ, therefore as before let the said I A the son and heir be summoned, that he be here in Oct. Mich. the same day is given to the parties aforesaid here, &c. And now here at this day, to wit, in Oct. Mich. come as well the said Mary as the said O and I by their Attorneys aforesaid: And the same I son and heir summoned, &c. by I D his Attorney likewise cometh, and saith, that he of the warranty aforesaid, by virtue of the writ aforesaid, as son and heir of the said I A his father, ought not to be charged, because he saith, that he hath not, nor at the day of purchasing the original writ of the same M, nor any times afterwards, had any Lands or Tenements by hereditary descent in fee simple from the said I his father: And this he is ready to verifie, whereupon he prayeth judgment, if he as son and heir of the said I his father, by virtue of the writ aforesaid, ought to be charged with the warranty, &c. And the same O and I say, that they ought not to be barred, because they say, that the same I son and heir, the day of purchasing the original writ of the same M, to wit, the seventh day of March, Anno &c. 36. had Lands and Tenements sufficient by hereditary descent in fee simple, from the said I his father, whereby he might warrant the said third part of the Tenements aforesaid, with the appurtenances, to the same O and I, to wit, at A aforesaid: And this they pray may be inquired of by the Country: And the same I Son and Heir likewise, &c. Therefore twelbe, &c.

Averment that the former feoffor had issue A, and nothing by descent from his father, as son and heir in fee to the value of the third part.

The Tenants as Assignes vouch to warrant the Heir and Summons to warrant assigned.

The Vouchee appears and pleads *riens per descent*.

Issue that he had assers by descent. *Quere*, if the Demandant shall not have judgment against the Tenants, before the issue be tried.

Quere.

T 41. Eliz. Rot. 309. Brownlow. Staff. ff. Jo. H and Joa. his wife, by I R their Attorney demand against Richard Stone, the third part of one Messuage, and one Garden, with the appurtenances, in W as the dower of the same Joane of the indowment of T S her late Husband, &c. And the same R by T T his Attorney cometh and saith, that the Tenements aforesaid, with the appurtenances, are held of T W Esquire, as of his Manor of W in the County of Staff. which said Manor is of the antient Demesne of the Crown of the said Lady the Queen that now is; and that those Tenements, with the appurtenances, are pleadable in the Court of the said Manor, and were pleaded by a small writ of the said Lady the Queen of right, from the time whereof the memory of man is not to the contrary: And this he is ready to verifie, as the Court here shall consider, wherefore it is not intended that the Court of the Queen here will take cognizance of the Plea thereof, &c.

Ancient Demesne pleaded to the jurisdiction of the Court.

And the same J and I say, that neither the Court of the said Lady the Queen ought to be hindered from the cognizance of the said Plea, nor they by any thing before alledged, from having the dower of the said Joan. out of the Tenements aforesaid, with the appurtenances, whereof, &c. be barred, because they say, that well and true it is, that the same Manor of W, with the appurtenances, is of the antient Demesne of the Crown of the Lady the Queen of England: And that the same Tenements, with the appurtenances, whereof, &c. are held of the said T W as of his Manor aforesaid, as the said R hath above alledged. But the same I and I further say, that before the purchasing of the original writ of the same I and I, and before the said T S late Husband, &c. had any thing in the Tenements aforesaid, with the appur-

The Demandant pleads a Fine levied by the Tenants, &c.

tenances, whereof, &c. one R H Gent. was seised of the Tenements aforesaid, with the appurtenances, whereof, &c. in his Demesne as of fee: And being so thereof seised, levied a certain fine in the Court of the said Lady the Queen now here, to wit, at Westminster in the County of Middlesex in Oct. Mich. Anno Reg. 6. before Ja. Dyer, A B, R W, and I W, then Justices of the said Lady the Queen of the Bench here, and other faithful people of the said Lady the Queen then being present between I P Gent. and I L Gent. Plaintiffs. And the same R H by the name of R H Gent. Deforcant of the Tenements aforesaid, with the appurtenances, amongst other things, by the names of twenty Messuages, ten Totts, six Cott. twenty Gardens, two hundred acres of Land, one hundred acres of Meadow, four hundred acres of Pasture, one hundred acres of Wood, forty acres of Bog, twenty acres of Parish, and one hundred acres of Furze and Heath, with the appurtenances, in W, otherwise W, whereof a Plea of covenant was then summoned between them in the same Court, to wit, that the same Rich. acknowledged the Tenements aforesaid, with the appurtenances, to be the right of the same I P, as those which the same I I then had of the gift of the same R: And those he remised and quite claimed of him and his Heirs to the same I and I, and the Heirs of the said I P for ever. And furthermore the same R granted for himself and his Heirs, that they will warrant to the same I and I, and the Heirs of the same I P, the Tenements aforesaid, with the appurtenances, against all men for ever, as by the same fine remaining here upon Record fully appeareth, which said fine in form aforesaid levied, was had and levied, to the use of the said I P, and I H, and their Heirs for ever, by virtue of which said fine the same I H, and I L were seised of the Tenements aforesaid, with the appurtenances, whereof, &c. in their Demesne as of fee, the estate of which said I P and I L of and in the Tenements aforesaid, with the appurtenances, whereof, &c. the same R S now hath, by pretext of which said fine the Tenements aforesaid with the appurtenances, whereof, &c. as free fee became pleadable, and are pleaded at the Common Law: And this they are ready to verifie, whereupon they pray judgment, and the dower of the said Joan of the Tenements aforesaid, with the appurtenances, whereof, &c. together with damages, by occasion of detaining the said dower to her to be adjudged, &c.

Warburton,

Mercy.

Whereupon the same R to rejoyne to the replication of the said I and I above pleaded, being solemnly called, came not, but made default, whereby the same I and I remain against the said R thereof without defence. Wherefore it is considered, that the same I and I recover their seisin against the said R of the third part aforesaid, with the appurtenances. And the same R in mercy, &c. And hereupon the same I and I say, that the said T S late Husband, &c. died seised of the Tenements aforesaid, with the appurtenances: and pray a Writ of the said Lady the Queen to be directed to the Sheriff of the County aforesaid, as well to cause to be had to her full seisin of the third part aforesaid, with the appurtenances, as to inquire of the damages, &c. And it is granted to them returnable here in Oct. Mich. &c.

M38. Eliz. rot. 2305. Brownlow. Northt. ff. A Countesse of D Maidow, who was the Wife of Ferd. late Earl of Derb. by T A her Atteyny demanteth against W Earl of D the third part of the Mannor of K, with the appurtenances, and the third part of one hundred Messuages, sixty Totts, three Dove-houses, sixty Gardens, two thousand acres of Land, eight hundred acres of Meadow, two thousand acres of Pasture, sixty acres of Wood, seven hundred acres of Furze and Heath, ninety Hillings rent, & being of frank Pledge, with the appurtenances, in B and E as the dower of the said Countesse

Countesse of the indowment of the said late Earl her late Husband,
&c.

And the said now Earl by E W his Attorney cometh and saith, that he cannot gain-say the Action of the said Countesse aforesaid, nor but that the said late Earl, late Husband of the said Countesse, of whose indowment, &c. after espousals between him the said E and the said Countesse celebrated, was seised of the Mannor, Tenements, Kent and veiw of F P aforesaid, with the appurtenances, whereof, &c. of such an estate that he could endow the same Countesse thereof, nor but that the same Countesse her Dower of the same Mannor, Tenements, Kent and veiw of Frank Pledge, with the appurtenances, as she the same above demanded, ought to have, &c. And the same Earl saith, that he alwyes from the time of the death of the said late Earl hitherto, was ready, and yet is, to render to the said Countesse her said Dower: And the same Dower to the said Countesse here in Court rendereth: Therefore it is considered, that the same Countesse recover her seisin against the said now Earl, of the third part aforesaid, with the appurtenances: And nothing of mercy to the said Earl, because he came the first day without summons, &c. And thereupon the said Countesse prayeth a Writ of the said Lady the Queen, to be directed to the Sheriff of the County aforesaid, to cause to be had to her full seisin of the third part aforesaid, with the appurtenances: And it is granted to her returnable here in Cr. Pur.

The Tenant
confesseth the
title of Dower,
and that he
was alwayes
ready to ren-
der it.

M 2. Jac. rot.
26:8.

E 13. Jac. rot. 1905. Walker. Otherwise as it appeareth in Trinity 12. rot. 1360. it is thus contained: S N. M C Widow, who was the Wife of B C Gent. by M Y her Attorney offered her self the fourth day against R W of a Plea of the third part of one Messuage and one Garden, with the appurtenances, in the Parish of St. Clements in the City of Winchester, which the same M in the Court here claimeth against him as her Dower, of the indowment of the same B her late Husband, by Writ of the said Lord the King, whereof she hath nothing, &c. And he came not, &c. And summoned, &c. Judgment, that the third part be taken into the hands of the said King, and the day, &c. And the same R be summoned that he be here in Oct. Mich. At which day here cometh the said M by her Attorney aforesaid. And the Sheriff now returneth, that he hath done nothing thereupon, nor sent his Writ thereof; therefore as before let another Writ thereof be made unto him returnable here in Oct. Hill. &c. At which day here came the same M by her Attorney aforesaid. And the Sheriff now returneth, that he hath done nothing thereupon, nor sent his Writ thereof, therefore as before let another Writ thereof be made unto him, returnable here, fifteen Pasch. At which day here came the said M by her said Attorney, and offered her self the fourth day against the same R of the same Plea: And he being solemnly called came not, and the Sheriff now testifieth the day of the caption, &c. and that he summoned, &c. whereupon the same M prayeth judgment, and her seisin of the third part aforesaid, with the appurtenances, for that default to be adjudged her, &c. And hereupon came into Court one I W Gent. one of the Attorneys of the Court of Common Bench of the King here in his proper person, and saith, that the said B late Husband, &c. before espousals between him and the same M were celebrated, was seised of the Tenements aforesaid, with the appurtenances, whereof, &c. in his Demesne as of fee: And being so thereof seised, one R S Gent. afterwards, to wit, in Easter Term, Anno Reg. &c. 7. to wit, upon Wednesday next after fifteen dayes from Easter in the same Term, before the said Lord the King at West. in the County of Mid. by A N then his

Awarding of a
Cape in Dow-
er for the de-
fault of the
Tenant.

Continuance
of the Cape.

Grand Cape
returned, exe-
cuted, &c.

Assignee of the Tenant in *Elegit* upon a Recovery in debt in the Kings Bench before the Esponsalls, &c. comes before Judgement, and prays to be received, to defend his right and faith, that the same Tenant made default by collusion between him and the demandant to defraud him of the third part of the Land, &c. and avers that the Recoverer is not satisfied, &c. Count upon Bill in debt in the Kings Bench. Confession by *Nisibil dic.* Judgment in Debt. The *Elegit* is awarded at the election of the Plaintiff to the Sheriff which is to be noted.

Returne of the *Elegit* and inquisition.

Attorney came, and brought into the Court of the said Lord the King then, and there, his certaine Bill against the same B in his life time, by the name of B C Gent. Otherwise called B C of the City of W, in the County of S Gent. in the custody of the Marshall of the said M, of the said Lord the King, in the said Court of the said King being, by which said Bill the said R then complained against the said B of a Plea that he should render unto him one hundred pounds of good and lawful money of Eng. which to him he then owed and unjustly detained, for that, to wit, that whereas the same B the 1st and twentieth day of May, Anno Reg. &c. 6. to wit, in the Parish of Saint Mary Bow, in the Ward of Cheap, by his certaine Writing Obligatory, sealed with the Seal of the same B, and to the Court of the said Lord the King, then here, shewed, the date whereof is the same day and year, acknowledged himselfe to be holden and firmly bound to the same R in the same one hundred pounds to be paid to the said R when he should be thereof required: Nevertheless the same B although often required the same one hundred pounds to the same R he had not then paid, but the same to him untill then to pay altogether denyed, and then did deny, to the damage of the said R of fifty pounds: And thereof he bringeth Sute, &c.

And the same B by R S his then Attorney came and said, that he could not deny, but that the said writing obligatory was his deed, neither but that he owed to the said R, the said one hundred pounds in manner and forme as the said R above against him had declared, wherefore it was then considered by the same Court of the said Lord the King, that the said R should recover against the said B (then being seised of the Tenements aforesaid, with the Appurtenances whereof &c.) his said debt, and also fifteen shillings for his damages which he had sustained, as well by occasion of the detaining of the said debt, as for his costs and charges by him about his said Sute, in that behalf laid out, to the same R, by the same Court of the Lord the King here, of his assent adjudged, and that the said B should be in mercy, &c. and afterwards, to wit, the two and twentieth day of June, Anno, &c. 8. the same R in the said Court of the said Lord the King, before the same King at Westminster aforesaid by his then Attorney by the Statute made his Election to be delivered to him all the Goods and Chattels of the same B, except his Dren and Cattell of his Plough, and also the one halfe of all his Lands and Tenements, whereof the same B the same Wednesday next after the same fifteen days from Easter, Anno 7. abovesaid, which day judgement was thereof given, or any time afterwards, was seised to hold to him and his Assignes, according to the forme of the Statute aforesaid, untill the debt and damages aforesaid, should be fully leyed, and then prayed thereof a Writ of *Elegit*, of the said Lord the King, to be directed to the said Sheriff of South. and it was then granted to him retournable, before the said Lord the King at Westminster, upon Wednesday next after Tres Mich. then next following, &c. At which day before the said Lord the King at Westminster, came the said R by his then said Attorney, & H W Knight then Sheriff of the County of S, then & there returned a certain inquisition before him at the City of W in the County of S, the 30. day of Aug. then last past, by the oath of twelve, &c. taken, by which it was found that the said B the said Wednesday next after the said 15. Pasch. Anno 7. abovesaid, was seised of his demesne as of fee, of and in one Messuage called the great Stone-house with the Appurtenances lying and being in the City of W in the County aforesaid, then in the occupation of A A Widow, of the clear yearly value in all issues besides reprises forty shillings, and also of and in one Garden with the Appurtenances called the N Garden, in the City and County aforesaid, of the clear yearly value in all issues besides reprises twenty shillings, and also of and in one other Messuage with the Appurtenances in the City and County aforesaid situate, lying, and being near the Temple there called Saint Clements Church in a certain Street there called

led Colestreet, late the Land of one W A deceased, then in the occupation of the said B or his Assignes, together with all Gardens and Offices to the same Messuages belonging, or appertaining of the clear yearly value in all issues besides reprises one hundred shillings, and also of an in one other Messuage with the Appurtenances called the long Halting House, in the City and County aforesaid, in the tenure of the said B of the clear yearly value in all issues besides reprises forty shillings, which said Messuage in the tenure of the same B, together with the said Garden lying and belonging to the same Messuage, with all and every their Appurtenances, for the moiety of all the Lands and Tenements aforesaid, the same Sheriff caused to be delivered to the same R, to hold to him and his Assignes according to the form of the said Statute, as his freehold, untill the debt and damages aforesaid shall be fully leyed, as the same Writ in it selfe did command and require; and it was further found by the inquisition aforesaid, that the said B the day of the obtaining of the said Judgement, had not any other or more Lands or Tenements, or at the day of the taking that Inquisition, had not any Goods or Chattels in the County aforesaid, to the knowledge of the Jurors to the same inquisition, or any of them: And the same I W saith, that the Tenements aforesaid with the Appurtenances, whereof, &c. are parcell of the Tenements aforesaid, with the Appurtenances by the inquisition aforesaid, above as aforesaid found, and that the same Tenements with the Appurtenances to the said R, by the same Sheriff in forme aforesaid delivered, and the same Tenements with the Appurtenances, whereof, &c. are one and the same Tenements and no other, nor divers: By reason whereof the same R entered into the Tenements aforesaid, with the Appurtenances, whereof, &c. entered, and was thereof possessed, and being thereof so possessed, the same R afterwards, to wit, the twentieth day of Oct. Anno. Dom. 1610. at the City of W aforesaid, granted his whole right, state, title, and interest, which he had of and in the Tenements aforesaid, with the Appurtenances, whereof, &c. to the same I W: By virtue of which grant the same I W into the Tenements aforesaid, with the Appurtenances, whereof, &c. entered, and was and yet is thereof possessed: And the same I W further saith, that the said M impleaded the said R W of and for the third part aforesaid, with the Appurtenances, whereof, &c. and the same R here in Court, made default by fraud, and collusion between the said M and the said R, with intent wholly to deceive and defraud the same I W of and in the third part of the Tenements aforesaid, with the Appurtenances, whereof, &c. And this he is ready to verifie whereupon, for that the same I W came here into the Court before Judgement of the said third part was given, ready to answer the said M therein, and to defend his right thereof, the same A saith, that he for that default by fraud and collusion aforesaid, in forme aforesaid had, his right, from, of, and in the third part aforesaid, ought not to be dismissed, but that he to the defence of his right therein ought to be admitted, &c. with this that the said I will verifie that the said R of the debt and damages aforesaid, is not yet satisfied, &c.

Averments that the Lands in demand are parcell of the Lands delivered. The Tenant in Elegit enters and grants his estate to him and prayeth to be received. Covin alleadged between the Demandant and Tenant. Averment that the recoverer is not satisfied.

A P D the same M saith, that the said I to defend any right of and in the third part of the Tenements aforesaid, with the Appurtenances, whereof, &c. ought not to be admitted, because shee saith, that well and true it is, that the same B in his life time was seised of the Tenements aforesaid, with the Appurtenances, whereof, &c. in his demesne as of fee; As the same I W hath above alleadged, but the same M further saith, that the same B of the Tenements aforesaid, with the Appurtenances, whereof, &c. so as aforesaid being seised, long before the recovery of the said debt and damages by the same R against the said B had, to wit, the fifteenth day of Aprill, Anno Reg. et. 2. at Winton aforesaid, took to wife the same M, and the said marriage was celebrated between the same B and M, according to the Ecclesiasticall Lawes

The Demandant counter pleads the receipt, and confesseth the Seizure of her Husband, but that shee was married to him before the recovery: And that shee is dowable.

of this Realme of England, then and there in due manner: by which said marriage the same M. of the aforesaid third part of the Tenements aforesaid, with the Appurtenances, whereof, &c. by the Law of this Realme of England is dowable, and ought to be indowed, and this she is ready to verifie, whereupon she prayeth Judgement, and her seisin of the third part of the Tenements aforesaid, with the Appurtenances, by the default of the said R., to her to be adjudged, &c. and that the same I W. for making any defence of any right of and to the third part aforesaid, may be barred, &c.

Rejoinder that the Husband, &c. before the recovery in debt did not marry her Dower, and issue thereupon. Judgment for the Demandant, with the Tenant was stay of execution until the issue be tried, which is found for the Demandant. Judgment that the Defendant have execution &c. Avowry that the Husband dyed seised, and a writ to inquire of what he dyed seised, &c.

A writ of seisin awarded. Continuance of the writ of seisin.

AND the same J. saith, that he by any thing before alleged, ought not to be barred to defend his right, because he saith, that the said B. before the recovery of the debt and damages aforesaid, by the same R. against the said B. had, did not marry the same M. as the same M. hath above supposed, and of this he putteth himself upon the Country, *Ven. fac. R. t. Cr. Trin.* And upon this at the said 13. *Pass.* at the petition of the same M. it was considered that the same M. should recover her seisin against the said R. of the third part aforesaid with the Appurtenances to hold to her in severalty by metes and bounds, and the same R. in mercy, &c. but let the execution thereof cease until the same issue between the same M. and I. be tried, &c. At which day the jury between the same J. M. and the said J. was thereof respected between them here, until, &c. as in other *Posseas*, &c. who say upon their oath, that the within named B. before the recovery of the debt and damages with a written by the within named R. S. against the same B. married the same M. as the same M. hath above by pleading alleged, Therefore it is considered that the said M. have execution against the said R. of her Dower aforesaid, &c. And hereupon the said M. saith, that the said B. late Husband of the said M. by whose Indowment, &c. the day wherein he dyed was seised of the Tenements aforesaid, with the Appurtenances, whereof, &c. in his demesne as of fee, and of such his estate therein dyed seised, and she demandeth her Dower from the time of the death of the said B. together with her damages, &c. to her to be adjudged, &c. But because it is unknown what damages the same M. sustained by the occasion of the detaining of the said Dower, nor how much those Tenements are worth by the year, according to the true value of them, nor how much time is elapsed from the time of the death of the said B. the Sheriff is commanded, that by the oath of honest and lawfull men of his Bailiwick, he diligently inquire if the said B. dyed seised of those Tenements with the Appurtenances in his demesne as of Fee simple, or of Fee tail: And how much time is elapsed from the time of the death of the said B. her late Husband, &c. And how much those Tenements are worth by the year, according to the true value of them, and also what damages the same M. sustained, as well by occasion of the detaining of the said Dower, as for her costs and charges by her about her sute in this behalfe laid out, and the inquisition which, &c. the Sheriff make appear here in *Ost. sci. Hillarij* under the Seal, &c. and Seals, &c. And also the same M. prayeth a Writ of the said Lord the King, to cause to be made to her full seisin of the third part aforesaid, with the Appurtenances, and it is granted to her, retorneable here at the aforesaid Terme, &c. At which day here came the same M. by her said Attorney, and the Sheriff as well to the said Writ of inquiry, &c. As the said Writ to have seisin, &c. hath doth nothing thereupon, nor sent his Writs thereof, therefore as before set another Writ be thereof made unto him in forme aforesaid, retorneable here, from Easter day in one moneth, &c.

The Tenant Pleads in Bar of the Demand in Dower

ELiz. 31. and 32. Eliz. Rot. 1025. *Midd. ss. E. E. and Eliz.* his Wife demand against *W. T.* the third part of one Garden, &c. with the Appurtenances, and avers the Lands to be the same Lands.

nances in Hackney, and the Tenant comes, and as to the Dower of the same *Eliz.* of one acre, &c. of the Tenements aforesaid, whereof, &c. having, the same *W.* saith, that before the day of purchasing of the Originall Writ of the said *Ed.* and *Eliz.* to wit, the fourth day of November, Anno. 29. *Eliz.* And shewes that the Husband and Wife prosecuted another Writ of Dower thereof, and sets forth the Proceedings and Recovery therein, as by the Record thereof, in the same Court here remaining, manifestly appeareth, and the same *W. E.* saith that the said one acre, &c. of the Tenements aforesaid, with the Appurtenances, whereof the same *E.* and *E.* now demand, and the said one acre and eight Perches of Pasture, with the Appurtenances, whereof the same *Ed.* and *Eliz.* have recovered their seisin of the third part against the said *W.* in forme as aforesaid, is one and the same Acre, and not other, nor divers, and this he is ready to verifie, whereupon as to the said one acre, &c. of the Tenements aforesaid with the Appurtenances, whereof the the same *Ed.* and *Eliz.* the Dower of the same *Eliz.* now demand, the said *W.* prayeth Judgement of the said demand, &c.

Averment.

AND the same *E.* and *Eliz.* as to the same Plea of the said *W. T.* to the said one Acre, &c. of the Tenements aforesaid, with the Appurtenances, whereof the same *Ed.* and *Eliz.* above now demand, in quashing of the said demand of the same *Ed.* and *Eliz.* thereof above pleaded say, that their said demand thereof by any thing before alledged, ought not to be barred, because they say, that the said Acre, &c. of the Tenements aforesaid, with the Appurtenances, whereof the same *Ed.* and *Eliz.* the Dower of the said *Eliz.* therein demand, and the said one Acre, &c. with the Appurtenances, whereof the same *Ed.* and *Eliz.* have recovered their seisin of the third part against the said *W.* in forme aforesaid, are not the same Acre, &c. but other, and divers: And this they pray may be inquired of by the Country, &c. And as to the Garden aforesaid of the Tenements aforesaid, with the Appurtenances, whereof the same *Ed.* and *Eliz.* now demand their Dower saith, that it is the same Garden in the first Recovery, and that he the said Tenant, after the Teste of the first Writ of Dower, and before the said *Cr. Tris.* untill which day the Tenant impleaded in the first Writ, and at which day he pleaded *non tenure* for part, and *non quise qu. Dower*, and Verdict as to the *non tenure* for the Tenant, then next ensuing, to wit, the 24 th. of May, 30. *Eliz.* into the residue of the Tenements in the said former demand mentioned, whereon it is above found, the same *W.* at the day of purchasing of the said first Originall Writ, not to be Tenant as of his free-hold, entred and was and yet is thereof seised in his demesne as of fee, in which case the same *Ed.* and *Eliz.* for the Recovery of the Dower of the said *Eliz.* in the said Garden, ought to have the Writ of the said Lady the Queen *de re No de dote*, and not the said Writ of Dower, *unde nichill b.* now purchased: And this he is ready to verifie, whereupon, as to the said Garden of the Tenements aforesaid, with the Appurtenances, whereof, &c. the same *W.* prayeth judgement of the said Writ, &c. and demurres upon this Plea: And he prayeth his Plea may be adjudged good, &c.

Issue that they are other Lands, and the same Lands.

H. 27. H. 6. Rot. 408. *Sequatur sub suo perulo*, after default upon Summons to warrant thence issuing before the grand cape *ad valen. T.* 16. H. 8. Rot. 124 T. 27. H. 8. Rot. 511. M. 6. H. 8. Rot. 411.

T. 16 H. 8. Rot. 124. T. 27. H. 8. Rot. 511. M. 6. H. 8. Rot. 411.

M. 2. 7a. Rot. 2628. *Brownlow*. Otherwise as it appeareth in *Hill. Term An. Reg. &c.* 1. Rot. 1410. it is thus contained; *Ex ss. A. C.* Widow, who was the wife of *J. C.* by *L. H.* her Attorney demandeth against *G. C.* the third part of one Messuage with the Appurtenances in *B.* as her Dower of the indowment of the same *J.* her late Husband by Writ of the said Lord the King of Dower, *unde nichill b.* &c. And the said *G.* in his proper person cometh

Demandin Dower, see new Park E D M

Rot. 114 T. 16. H. 8 Rot. 124. M. 3. H. 6. Rot. 130. E. 10. H. 5. Rot. 308. Rot. Hill. 43. *Eliz.* 1 purpart, and nontenure, for part, and a *petitis Cape* awarded.

T t t

and

The Vouchee cometh and enters into warranty, and contesteth the Action such a Judgment and confession of the Tenant by warranty, H. 17. Eliz. Rot. 459. *Lincoln. Pasch. 24. H. 6. Rot. 455. Sequatur suo periculo, without return of the Writ. Demand in Dower against the Brother and Heir in the same County summons awarded against the Vouchee. H. 1. H. 5. Rot. 111.*

and as to one moiety he confesseth the Action, and that shee have Judgment, and as to the other moiety of the Tenements aforesaid, with the Appurtenances, the same G. prayeth that E. C. Brother of the said I. C. may be called thereof to warrant, let him be summoned in the County aforesaid, so that he be here *tres Pasch.* by the aid of the Court, &c. in the same day is given to the parties aforesaid, &c. At which day here came as well the said A. by her Attorney aforesaid as the said G. in his proper person. And the Sheriff now returneth that he hath nothing &c. Therefore as before let the same I. C. be summoned, that he be here in *Oct. Trin.* to warrant to the said G. in form aforesaid &c. the same day is given to the parties aforesaid here, &c. at which day here came as well the said A. by her Attorney aforesaid, as the said G. in his proper person. And the Sheriff as before returneth, that the same Ed. hath nothing &c. Therefore as oftentimes let the same Ed. be summoned that he be here in 15. *Mich.* to warrant to the said G. in form aforesaid, &c. and it is said to the said G. that he follow at his perill, &c. the same day is given to the parties aforesaid here, &c. At which day here came as well the said A. by his Attorney aforesaid, as the said G. in his proper person. And the same E. by R. D. his Attorney likewise cometh, and freely the said other Moiety of the Tenements aforesaid with the appurtenances, to the same G. warranteth, &c. the Demandant declares against him &c. in form aforesaid, &c. The Vouchee confesseth the Action and Judgment for the Demandant against the Tenant, with recovery in value, and a Writ of Inquiry thereof awarded and a Writ of Seisin awarded for the third part of the whole Tenements with the appurtenances, &c. *Rot. 8. hill &c. Hill. 3. & 4. P. & Mar. rot. 811. A Petit. cape awarded upon default of the Tenant at the return of the De sequatur suo periculo. c. b. 11 h. 6. rot. 333. Grand cape ad valentiam, the Sheriff returned a Nichil and a Tereit. that he had sufficient, and an Alias & plur. & sequatur ibid.*

M 16. Ia. Rot 3247. Brownlow. Suffex, ff. TK and E his Wife, by I P his Attozay, demand against TB the third part of two Messuages, &c. with the Appurtenances in H, of the Indowment of I W, her late Husband, &c.

AND the same B by IN, his Attozay cometh, &c. calleth thereof to warrant EW, Brother and Heire of the same I late Husband, &c. of the said E, let him be summoned in the County aforesaid, that he be here in eight dayes of Saint Hillary, by the aid of the Court, &c. the same day is given to the parties aforesaid, here, &c. At which day here came as well the said TK and E, as the said TB by their Attozneys aforesaid, and the Sheriff to wit, IH Knight now returneth, that the said Writ of Summons was delivered to him so late, that for the shortnesse of time he could not execute it, Therefore let the same EW as before be summoned, that he be here from Easter day, in fifteen dayes to warrant to the same TB in forme aforesaid, &c. the same day is given to the parties aforesaid, here, &c. at which day the Demandant and Tenant come, and the Sheriff returneth tardy, Therefore it is considered that the said EW as oftentimes be summoned, that he be here in Cr. Trin. to warrant to the same TB in forme aforesaid; and it is said to the said TB, quod sequatur sub suo periculo, the same day is given to the parties aforesaid, here, &c. At which day here cometh as well the said TK and Eliz. as the said TB by their Attozneys aforesaid, and the said EW came not, &c. And the Sheriff returned tarde, whereupon the same T and Eliz. pray the Seisin of the third part aforesaid, of the Tenements aforesaid, against the same TB to them to be adjudged, &c. and it was said to the same T quod sequatur sub suo periculo, the same T of his aforesaid non wanting, for that no Writ thereof was duly prosecuted, Therefore it is considered that the said TK and Eliz. recover their seisin against the said TB of the

the third part of the Tenements aforesaid, with the appurtenances, And the same T B in mercy, &c. A Writ of seisin is awarded, and a Writ to inquire of the points in Dower. Henden for Demandant, Towse for Tenant: Nota, that by 14. H. 6, 7, and 20. B. title Sequatur sub suo periculo l. 3 and 4. by the opinion of Brook, the Sequatur ought to be by the Tenant to the Sheriff, that he see it served at his peril, the words De sequatur ad periculum of the Tenant are such, that if the Tenant cannot cause the vouches to be summoned in Lands by descent, he shall loose his warranty, and shall not recover the value, and according thereunto, see the new Book of Entries, title Voucher in Forin, don 14. fo. 377. c. d. And with such judgment accords, 42. E. 3. fo. 13. b. Br. Sequatur 1. and 2. H. 4. fo. 7, and 8. Br. Dower 28. but at a day in Court the Case was thus, the Demandants appear, and the Tenant and Vouches come not: Henden moved the Court to have seisin of the Lands, because the Tenant and Vouches made default, but Warburton, Winch and Hutton, that if the Tenant had appeared, the Demandants ought to have had seisin of the Lands, but in this Case a petty Cape issued: And with this agrees the book of 13. H. 8. fo. 41. Kelway and 45. E. 3. fo. 62. M. 11. R. 2. Blain, tiff accordingly agrees, and petit. Cape issued accordingly returnable, 8 Mich. 18. and the judgment upon the Sequatur aforesaid was penned by me, because of my President but it was never entered by reason of the opinion of the Court, &c. And this cause before the return of the petit. Cape was compounded.

M 18. Jac. rot. Waller. Buck. H. K. M. Widow, who was the Wife of T S, otherwise G, by E. M. her Attorney demandeth against W A the third part of three Messuages, one Garden, one Orchard, twenty acres of Land, and eight acres of Pasture, with the appurtenances, in W T as her Dower of the indowment of the said T her late Husband, &c.

And the said W by T S his Attorney cometh, and as to four acres of Land, and three acres of Pasture of the same twenty acres of Land, and eight acres of Pasture, the Tenant pleads non-tenure: And as to the residue of the Tenements aforesaid, with the appurtenances, in the Demand aforesaid above specified, whereof, &c. the same W saith, that the said K her Dower of the Tenements aforesaid, with the appurtenances, whereof, &c. residue, ought not to have, because he saith, that the same T late Husband, &c. in his life time was seised of the Tenements aforesaid, with the appurtenances, residue hereof, &c. and of two other Messuages, two Gardens, two Orchards, seven acres and one rood of Land, and one acre of Pasture, with the appurtenances, in Welton Turville aforesaid, in his Demesne as of fee. And being so thereof seised, the same T died so seised of the whole Tenements aforesaid, with the appurtenances, after whose death the whole Tenements aforesaid, with the appurtenances descended to one M, late Wife of W A, as Daughter and Heir of the said T S, otherwise G, whereby the said W and M into the whole Tenements aforesaid, with the appurtenances, entered, and were thereof seised in their Demesne as of fee in the right of the same M: And being so thereof seised, the same W and M had issue between them one S A: And the same K afterwards, at W T aforesaid took to Husband one J M now deceased, And the same W and M being of the whole Tenements aforesaid, with the appurtenances, in form aforesaid seised, the same W afterwards and before the day of purchasing of the original Writ aforesaid, to wit, the twentieth day of March, Anno Eliz. Reg. &c. 33. at W T aforesaid assigned to the same J M and

The Tenant pleads that he assigned Dower to the Wife in the life of her second Husband, and she after his death continued possession, and received the profits.

and K, in the life of the said J, the same two Messuages, two Gardens, two
 Dychards, seven acres and one rood of Land, three roods of Meadow, and one
 acre of Pasture, with the appurtenances, last specified in W T aforesaid, to
 have and to hold to the same I and K the same Tenements, with the appurte-
 nances, for term of life of the said K in full satisfaction and recompence of the
 whole Dower of the same K to her out of the whole Tenements, with the ap-
 purtenances, happening, by pretext whereof the same I and K into the foresaid
 Messuage, Gardens, Dychards, seven acres and one rood of Land, three roods
 of Meadow, and one acre of Pasture, with the appurtenances, above last speci-
 fied to them as aforesaid, in for an aforesaid assigned, entred and were thereof
 seised in their Demesne as of free-hold for term of the life of the said K:
 And being so thereof seised the same J M afterwards and before the day of
 purchasing of the original Writ aforesaid, to wit, the twentieth day of April,
 Anno Reg. &c. primo, at W T aforesaid died of such his estate thereof
 seised: And the same K him survived, and kept and continued her self within
 the same Messuage, Gardens, Dychards, seven acres and one rood of Land,
 three roods of Meadow, and one acre of Pasture, with the appurtenances, last
 above specified, to the said J and the same K in the life of the said I M her late
 Husband, assigned for the Dower of the said K, and was and yet is thereof
 solely seised in her Demesne as of her free-hold for term of her life; and
 the issues and profits thereof from the time of the death of the said I M her
 late Husband, &c. until the day of purchasing of the original Writ of the
 said K had and received and yet hath and receiveth: And this he is ready to
 verifie: whereupon he prayeth judgment, if the said K her Dower of and in
 the Tenements aforesaid, with the appurtenances, in the demand aforesaid a-
 bove specified, whereof, &c. residue, &c. ought to have, &c. Tho. Ru-
 chardson, vide Fitz. Dower 121. accord, that this is a good Plea in barre of
 Dower.

EJECTMENT.

H. 36. Eliz. Roll. 120. Between Cowper and Unwyn, in ejectment special Verdict, where the Plaintiff declared upon a Demise made by two, and Verdict was found for him, that one of the Lessors had nothing at the time of the Demise; And the Court was clearly of opinion against the Plaintiff.

E. 9. Ja. Roll. 2256. & Brownlow, Midd. ss. H. B. brings his Action of Trespass and Ejectment against P. C. of one messuage with the Appurtenances, in the Parish of St. M. in the Strand, which G. S. demised to the Plaintiff for a term, which is not yet past; And declares against the said Defendant, that the said G. being seised and demised to the Plaintiff, the said Messuage with the Appurtenances, situate in the same Parish, for the term of two years next ensuing, &c. And layes the Ejectment the same day to the damages of 40 l. And thereupon brings his Suit, &c. The Defendant pleads as followeth, That the said Defendant, as to the force and wrong, not guilty; And as to the residue of the Trespass and Ejectment aforesaid above supposed, to be done the same P. says quod Actio non, because he saith, that long before the same time, wherein is supposed the Trespass and Ejectment aforesaid, to be done the Lady Eliz. late Queen of England, was seised of the Messuage aforesaid with the Appurtenances in her Demesne, as of Fee in the right of her Crown of England: And being so thereof seised, the same late Queen, before the same time, in which &c. to wit, the 17. day of June in the 15. year of her Reign at Westminster aforesaid, in the County of Midd. by her Letters Patents, under her great Seal of England sealed, bearing date the same day and year demised to one K. H. Widow, the same Messuage, with the Appurtenances among other things to have and occupy to the same K. and her Assigns, for the term of 21. years, beginning at the Feast of the Annunciation of the blessed Virgin Mary, which should then be in the year of our Lord, 1508. full to be compleat and ended. By vertue of which Demise, the same K. in the morrow of the said Feast of the Annunciation of the blessed Virgin Mary, into the Messuage aforesaid, with the Appurtenances entred; and was thereof possessed: And the same K. being so thereof possessed; and the same late Queen being seised of the reversion of the same Messuage in her Demesne as of Fee in the right of her Crown of England, the same late Queen afterwards, and before the same time, in which, &c. (to wit) the 4. Day of April Anno. &c. 37. at Westminster aforesaid, by her Letters Patents, with her great Seal of England sealed, bearing date at Westminster aforesaid, the same day and year demised to one J. H. the reversion of the said Messuage with the Appurtenances among other things, for the term of 21. years to begin from the feast of the Annunciation of the blessed Virgin Mary, which should be in the year of our Lord 1609. then next following, and full to be compleat and ended. By vertue of which Demise, the said J. H. was of the interest of the said term of 21. years of and in the Messuage aforesaid with the Appurtenances possessed. And being so thereof possessed, the same J. afterwards to wit, the 7. Day of April, Anno. Eliz. Regis. &c. at Westminster aforesaid, by his certain Writing, sealed with her Seal bearing date the same day and year, granted to the said G. S. his whole Estate, Interest, and Term of Years, which he had

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then,

32. H. 8.

then to come of and in the Messuage aforesaid with the Appurtenances. And the same P. further saith, that by a certain Act of Parliament of the Lord H. late King of England, the 8. at Westminster aforesaid in the County of Middlesex, in the 32. Year of his Reign held and made, among other things it was Enacted by the Authority of the same Parliament, that all Demises of any dwelling House or Shop, within the Dominions of the said late King, made to any Foreign Artificer, or Handicrafts man, born without the obedience of the said late King, not being Denizen, should be void; as by the same Act more fully appeareth. And the same P. further saith, that the same G. S. at the time of the making of the said Writing of Grant to the same G. by the said J. H. in form as aforesaid, was an Alien, born without the Dominions of the said late King, or of his Progenitors, Kings and Queens of England now, of Father and Mother in the Parts beyond the Seas; to wit, at Roan, within the Kingdome of France; And not under the obedience or allegiance of the said King that now is, and his Progenitors, Kings and Queens of England and not made Denizen; And that the said G. H. the same time of the making of that Grant, was an Artificer, or Handicrafts man; that is to say, a Gunmaker inhabiting in the same Parish of St. M. the Strand aforesaid: by which the said Grant of the Interest of the same term of years to the said G. by the same J. H. in form aforesaid made, and by force of the Statute aforesaid was altogether void in Law: And the same J. H. of the Interest of the said term, by the said Lady the Queen to him granted in form as aforesaid being possessed the same J. afterwards and before the same time, in which, &c. to wit the first Day of October, in the Eighth Year of the Reign of the Lord the King that now is at Westminster aforesaid, granted to the same P. his whole Estate, interest, and term of years, which he then had to come of, and in the Messuage aforesaid, with the Appurtenances. By vertue of which Grant, the same P. afterwards, and before the same time, in which, &c. to wit, in the morrow of the Feast of the Annunciation of the blessed Virgin Mary, Anno Dom. 1608. into the Messuage aforesaid, with the Appurtenances entred and was thereof possessed: And the same P. being so thereof possessed, the same G. claimed the same Messuage, with the Appurtenances by vertue of the said Writing of Grant by the said J. H. thereof made into the Messuage aforesaid, with the Appurtenances entred, and was thereof possessed. And being so thereof possessed the same sixth Day of October, Anno 8. above said, demised to the same H. the Messuage aforesaid, with the Appurtenances, to have and occupy to him and his Assigns from the said first Day of October, unto the end and term of the same two Years, from thence next following, and fully to be compleat and ended. By vertue of which Demise, the same H. into the Messuage aforesaid, with the Appurtenances entred, and was thereof possessed, upon the possession of which said H. thereof, the same P. afterwards, to wit the same time in which, &c. into the Messuage aforesaid, with the Appurtenances entred. And the same H. from his Farm aforesaid thereof, did eject, as to him it was well lawful; And this he is ready to verifie: whereupon he prayeth Judgment if Action, &c.

And the same H. ought not &c. because he saith, that the said G. H. at the time of the Grant aforesaid to the said G. by the said J. H. in form aforesaid made, was, and yet is a Native of English Father and Mother, born in the time of H. late King of England the 8. under the allegiance and obedience of the same late King Henry the 8. and of the Lord the King that now is; to wit, at the said Parish of St. M. in the Strand, and not an Alien: as the same P. above hath alleadged: And this he prayeth, that it may be enquired of by the Countrey: And the same P. likewise:

likewise: Therefore the Sheriff is commanded, that he cause to come here 5. Pas. xij. et. Verdict and Judgment for the Plaintiff; and a Writ of Possession for his term awarded.

M 14. Jac. Roll. 2085. è Brownlow Lincoln ff. G. H. against T. P. upon a Lease made to him, 12. August, Anno 13. at H. by G. . of 140. Acres of Pasture in N. the Ejectment made 12. August, Anno 13. And the same T. by E. S. cometh, et. And as to come with force and arms saith, that he is not guilty, et. And thereof, et. And as to the residue of the Trespass and Ejectment aforesaid, above supposed to be done, the same T. saith, that the said O. Adio non, because he saith, that before the same time, in which the Trespass and Ejectment aforesaid is supposed to be done: And before the same G. G. had any thing in the same 140. Acres of Pasture, with the Appurtenances, in which et. one W. W. Knight and Baronet, was seised of the same 140. Acres of Pasture, with the Appurtenances in his Demesne, as of Fee. And being so thereof seised, the same W. W. afterwards and before the same time, in which, et. to wit, the 8. Day of March, Anno Regis Angliæ, et. 8. at N. aforesaid, demised to one G. C. Widow, the aforesaid 140. Acres of Pasture, with the Appurtenances, to have and occupy to him and his Assigns from the Feast of St. Philip and James, then next following; until the end and term of twenty one years, from thence next following, and fully to be compleat and ended. By vertue of which Demise, the same G. afterwards, and before the time, in which, et. to wit, in the morrow of the Feast of P. & J. the Apostles, into the said 140. Acres of Pasture, with the Appurtenances, in which et. entred, and was thereof possessed: And being so thereof possessed, the same G. afterwards and before the same time, in which, et. to wit, the 23. Day of October, Anno Regis Ang. 12. at N. aforesaid, demised to the same T. the said 140. Acres of Pasture, with the Appurtenances, to have and occupy to him and his Assigns, from the Feast of St. Philip and James, then next following, unto the end and term of 21. years, then next following. By vertue of which Demise, the same T. afterwards, and before the time, in which, et. to wit, in the morrow of the Feast of Saint Philip and James, into the same 140. Acres of Pasture, with the Appurtenances entred, and was thereof possessed: And the same T. being so thereof possessed, and the same G. C. afterwards, and before the time in which, et. to wit, the same 12. Day of August, Anno 13. abovesaid, into the same 140. Acres of Pasture, with the Appurtenances in which et. upon the possession of the same T. thereof entred: and him from his possession thereof expelled and removed. And the same 140. Acres of Pasture, with the Appurtenances, in which et. afterwards; to wit the same 12. Day of Aug. Anno 13. abovesaid at N. aforesaid, demised to the said G. to hold and occupy to him and his Assigns, from the said first Day of August, then last past until the end and term of three years from thence next following, fully to be compleat and ended: By reason of which Demise, the same O. into the said 140 Acres of Pasture with the Appurtenances. in which, et. entred and was thereof possessed, as the same O. by his Declaration aforesaid above supposed: Upon the possession of which said O. thereof, the same T. afterwards to wit the same time, et. into the same 140. Acres of Pasture, claiming his term aforesaid therein entred; and the same O. from his Farm aforesaid thereof ejected; as to him it was well lawful. And this, whereof et. Si Actio et.

And the said O. saith that he by any thing before alleged, ought not to be barred from having his said Action et. because he saith that well and true it is, that long before the same time of the Trespass and Ejectment aforesaid

aforesaid done ; and before the same G. G. had any thing in the same 140
 Acres of Pasture, with the Appurtenances, in which &c. the same W. W.
 Knight and Baronet, was seised of the same one hundred and forty acres
 of Pasture with the Appurtenances in his Demeasne, as of Fee ;
 and being so thereof seised the same W. W. afterwards, and before the same
 time of the Trespass and Ejectment, &c. to wit, the 8. Day of March, Anno
 R. 8. at N. aforesaid, demised to the said Grace C. Widow, the said 140.
 Acres of Pasture, with the Appurtenances, to hold and occupy to her and
 her Assigns, from the Feast of Saint Philip and James, the Apostles, then
 next following, unto the end and term of 21. Years from then next fol-
 lowing ; and fully to be compleat and ended : By vertue of which De-
 mise, the same G. afterwards, and before the same time of the said Tres-
 pass and Ejectment ; to wit, in the morrow of the said Feast of Saint Phi-
 lip and Jacob, the Apostles, into the same one hundred and forty acres of
 Pasture, with the Appurtenances, in which &c. entred, and was thereof pos-
 sessed, as the same T. hath above alleadged : But the same O. saith further,
 that the same G. of the said one hundred and forty acres of Pasture, with
 the Appurtenances, in which &c. in form aforesaid, being possessed, the same
 G. before the same time of the Trespass and Ejectment aforesaid : and be-
 fore the same Demise to the same J. P. by the same G. made ; to wit,
 the thre and twentieth Day of October, Anno xij. abovesaid, at N. afoze-
 said, demised to the said G. G. the said one hundred and forty acres of
 Pasture, with the Appurtenances, in which &c. to have and occupy to him,
 and his Assigns, from the Feast of Saint Philip and James, the Apostles,
 then next following, until the end and term of sixteen years, from thence
 next following, and fully to be compleat and ended. By vertue of which
 Demise, the same G. afterwards, and before the time of the Trespass and
 Ejectment aforesaid ; to wit in the morrow of the said Feast of St. Philip
 and Ja. the Apostles, into the same one hundred and forty acres of Pa-
 sture, with the Appurtenances entred and was thereof possessed : And be-
 ing so thereof possessed the same G. afterwards, and before the same time
 of the Trespass and Ejectment, &c. to wit, the same 12. Day of August,
 Anno 13. abovesaid, at N. aforesaid, demised to the same O. the said
 one hundred and forty acres of Pasture with the Appurtenances in which
 &c. to hold and occupy to him and his Assigns from the first Day of August,
 then last past until the end and term of thre years, then next following,
 fully to be compleat and ended : By vertue of which Demise the same O.
 afterwards, and before the same time of Trespass and Ejectment &c. into
 the said one hundred and forty Acres of Pasture, with the Appurtenances,
 in which, &c. entred, and was thereof possessed. And the same O. being so
 thereof possessed, the said T. the same tenth Day of Septem. Anno 13.
 abovesaid, into the Tenements aforesaid ; which the same G., to the said
 O. in form aforesaid demised for the said term, which is not yet past, en-
 tred and him from his Farm aforesaid thereof ejected against the peace of
 the said Lord the King that now is, as he above complaineth against him ;
 and this he is ready to verifie : Whereupon for that the same T. the Tres-
 pass and Ejectment aforesaid, above acknowledged the same O. prayeth
 Judgment and possession of his term aforesaid, together with his Doma-
 ges, by occasion of the Trespass and Ejectment aforesaid to him to be ad-
 judged &c.

And the same T. as before saith that before the same time, in which, &c.
 and before the said G. had any thing in the same one hundred and forty
 Acres of Pasture with the Appurtenances in which &c. the said W. was
 seised of the same one hundred and forty Acres of Pasture, with the Ap-
 purtenances, in his Demeasne as of Fee : And being so thereof seised, the
 same

same W. W. after wards and before the same time, in which &c. demised to the said Grace, the said one hundred and fourty acres of Pasture, with the Appurtenances, in manner and form as the said T. hath above alleadged. By vertue of which Demise, the same G. afterwards, and before the same time, in which &c. to wit, in the said morrow of the said Feast of St. Philip and Ja. the Apostles, into the said 140. Acres of Pasture, with the Appurtenances, in which, &c. entred, and was thereof possessed: And being so thereof possessed, the same G. afterwards, and before the same time, wherein &c. to wit, the same 23. Day of October, Anno 12. above-said, at N. aforesaid, demised to the same T. the said 140. Acres of Pasture, with the Appurtenances, in manner and form as the same T. hath above alleadged, without this, that the said G. before the said Demise to the said T. P. by the said G. made demised to the said G. the said 140. Acres of Pasture, with the Appurtenances, as the same O. hath above alleadged: And this he is ready to verifie: Whereupon as before, he prayeth, that the same O. may be barred from having his said Action, &c.

And the same O. as before, saith that the same G. before the said Demise to the said T. P. by the same G. made, demised to the said G. the aforesaid one hundred and fourty Acres of Pasture with the Appurtenances, as he hath above alleadged. And this he prayeth may be inquired of by the Countrey. And the same T. likewise, &c.

T. 9. Jac. Roll. 2151. Concord pleaded in an Ejection firm, between C. and P.

Concord.

T. 12. Jac. Roll. 3445. s Brownlow. E. ff. R. A. against L. W. of a Plea wherefore with force and arms two partes of one Messuage, one acre of Land one hundred acres of Meadow, and thirty acres of Pasture into three partes to be divided, with the appurtenances in B. which &c. Judgment for the Plaintiff. Error.

T XI. Eliz. Roll. 2118. London. ff. R. S. late of, &c. was attached to answer J. K. of a Plea: wherefore with force and arms in to two shops, with the Appurtenances in the Parish of St. Michael Cornhill, in the Ward of C. whereof the one moiety of the same two shops with the Appurtenances the Mayor and Commonalty, and Citizens of the City of London to the same, I have demised for a term which is not yet past: and the other moiety of the same two shops, with the Appurtenances the Wardens, and Company of the Mystery of Mercers of the City of London, to the same I demised for the same term which is not yet past he entred and him from his Farm aforesaid ejected, and other wrongs, &c. And whereupon the same J. by T. N. his Attorney, complaineth, that whereas the same Mayor, Commonalty, and Citizens of the City of London, the third Day of May, Anno Eliz. Regina 40. at London, in the Parish and Ward aforesaid, by their Indenture tripart between the same M. C. and Citizens of the City of London, on the first part; and the Wardens and Company of the Mystery of Mercers on the second part; and the same J. K. on the third part made: wherof one part, as well with the common Seal of the said M. and C. and Citizens of the City of London, as with the common Seal of the said Wardens of the Company of the Mystery of Mercers of the City of London Signed the same J. here in Court bringeth bearing date such a day and year at London, in the Parish and Ward aforesaid first delivered demised to the said J. one moiety of the two shops aforesaid with the Appurtenances, to hold and occupy to him and his Heirs, from the Feast of the Annunciation of the blessed Virgin Mary

Declin Ejection, upon several Demises of moieties.

T. 17. J. Rot.
1932. E. ff. De-
cl. upon a lease
made by the
Bishop of E. by
Indenture,
without con-
firmation.

last past, before the date of the said Indenture, unto the full end and term of ten years, from thence next following, and fully to be compleat and ended. And also whereas the said Wardens, and Company of the Mystery of Mercers of the City of London, the same third Day of May, Anno 40. abovesaid at London in the Parish and Ward aforesaid, by the said Indenture, bearing date the said twentieth Day of March, Anno 40. abovesaid, And to the same J. as the Deed of the said Wardens, and Company of the Mystery of Mercers of the City aforesaid the same third Day of May, Anno 40. abovesaid, at London in the Parish and Ward aforesaid first delivered demised to the said J. the said other moiety of the two Shops with the Appurtenances habend, &c. By vertue of which said Demise the said J. into the Shops aforesaid, with the Appurtenances entred, and was thereof possessed. And the same J. being so thereof possessed such a day and year with force and arms &c. the Shops aforesaid, with the Appurtenances, whereof one moiety of them the Mayor, C. and Citizens of the City of London, to the same J. demised for a term which is not yet past; and the other moiety of the same two Shops, the same Wardens and Company of the Mystery of the Mercers, London to the same J. in forme aforesaid demised for a term which is not yet past. And him from his Farm aforesaid did eject; and other Enormities, &c. And thereof bringeth Suit,

Ejectment of
part of a mess-
uage.

The like T.
16. C. Rot.
M.D.C.XVI.

M. 41. and 42. Eliz. Rot. 213. A. K. B. late of London, Widow, P. S. &c. and F. P. &c. were attached to answer M. F. of a Plea, wherefore with force and arms into one Hall, one Kitchen, one Buttery, two Lodging Rooms, one Carret gone Shop, with the Appurtenances, parcel of a certain messuage in the Parish of Saint George next Eastcheap, which W. A. to the same M. demised for a term, which is not yet past, they entred, and him &c. The Defendant pleads not guilty: And hereupon the said Plaintiff saith, that he is an Alien, born in the parts beyond the Seas, to wit, at Antwerp in Brabant; And prayeth, a Writ of the Lady, the Queen, to cause to come here twelve, &c. whereof the one half to be born in this Countrey; and the other half Aliens, born at Antwerp in Brabant aforesaid, to try the issue of the same Plea abode joynd to be tried by the Countrey, according to the form of the Statute in this case made and provided. And because &c. afterwards Issue being continued between the parties aforesaid, &c. and the Jurors of the Jury, whereof mention is within made; some of them being called, came; and some of them came not; as appeareth in the Pannel: And the Jurors of the Jury within written, now appearing, to wit, T. T. W. B. J. L. J. H. Countrey born, H. V. J. O. P. V. G. C. and X. D. Aliens, are sworn upon the same Jury. And because the residue of the Jurors, of the same Jury, appeared not therefore others of the Standers by, as well Countrey born, as Aliens by the Sheriff of the City aforesaid, being called at the request of the said Plaintiff; And by the command of the Chief Justice aforesaid, are of new appointed: whose Names in the Pannel within written, are filed, according to the Form of the Statute in this case made and provided. And the Jurors so of new appointed; to wit, R. B. and J. J. Countrey born, and J. W. an Alien came unto the Jury aforesaid and with the other Jurors first impanelled and sworn, to speak are elected tried and sworn: and afterwards for certain causes as well the same Chief Justice, as the parties aforesaid, especially moving the same Jury by the consent of the parties aforesaid, to give any Verdict of the within contained, at the day and place aforesaid, were discharged and permitted to go at liberty. And hereupon J. V. one of the Jury aforesaid, by the command of the said Chief Justice, and

Venire Facias,
as well of
strangers, as
of, &c.

Tales as well
of strangers,
as, &c.

Jurors, by con-
sent, are dis-
charged.

One of the Ju-
rors is with-
drawn.

and consent of the parties aforesaid, from the Pannel within written, is withorawon: Therefore the Jury aforesaid is further respited here, untill in the morrow of the Ascension of our Lord, for defect of a Juror, &c. Therefore let the Sherifff have the bodies &c. And let a Decemtales be put to as well of Countrey bozn, as of Aliens, &c.

T 19. Jac. Rot. 2091. è Brownlow. Leic. ff. R. J. against M. M. in Special Entry. Trespals and Ejectment; and declares upon an Indenture, dated 20. September, Anno 18. Jac. habend from the Day of the Date of the Indenture: By vertue of which Demise, the same R. the 16. Day of April, 19. Jac. entred; and the Ejectment the same Day &c.

M 8. Jac. Rot. 345. è Brownlow. Suff. ff. R. W. Gent. against W. P. and others; and declares, that John W. the ninth of June, Anno 8. Jac. by his Indenture leased to the Plaintiff the Mannors of E. O. and L. in C. with their Appurtenances five hundred Acres of Land, Sheep-walk, and liberty of two Folds, with the Appurtenances in F. h. = bend from the Day of the Sealing and Delivery of the same Indenture for two years; and that he entred: And that the Defendants, the 15. Day of June before did eject him: The Defendants, as to the force and wrong not guilty, and as to the residue, Actio non, because they say that before the time in which the Trespals and Ejectment are supposed to be done; and before the same R. W. had any thing in the Mannors, Tents Sheep-walk, and liberty of two Folds aforesaid, with the Appurtenances, certain J. H. and J. M. were seised of the Mannors Tenements, Sheep-walk, and liberty of two Folds aforesaid, with the Appurtenances in their Demesne as of Fee upon trust and confidence, that they would dispose them to the only use and benefit of H. R. Esquire, and N. R. Gent. and to the Heirs of the said N. And moreover they plead the Statute of 13. Eliz. against Usury. And also they say, that the same E. and M. afterwards the 23. Day of June in the 13. aforesaid; and before the time of the Ejectment to wit, the 4. of April, Anno 2. Jac. Reg. were indebted unto one W. W. Gent. in two thousand pound: And that upon the same Day at S. in the County of Surrey, it was corruptly agreed between them, that the said E. and N. should pay to the same W. 3474. l. to wit, two thousand pound thereof for the principal Debt, and one thousand four hundred seventy four pound thereof for gain and profit, for giving of time for payment for the said two thousand pound in form following, that is to say, 5. hundred yearly, by equal portions, upon the 10. Day of November, and the 10. Day of May, in a eleven years next ensuing; the first payment to commence the tenth of November next ensuing; and that the same payment should continue upon every tenth Day of May, and tenth Day of November, for eleven years, next coming: And that upon the last Day of payment of the said several Days of payment (that is to say) upon the tenth Day of May which should be in the year, &c. 1615. 1741. above the sum of 150 l. then payable: And for the Security for payment of the said two thousand pound of the principal Debt; as for the said 1474 l. for gain and profit, in manner as is aforesaid to be paid the same J. H. and J. M. leased to the same J. D. and W. M. the Mannors, &c. habend from the 10. Day of May next ensuing the said 4. Day of April, for 16. years to the use of the said W. and plead performance of the Agreement therein. And that the same D. and M. before the said Ejectment entred and afterwards, to wit, the said 9. Day of J. An. 8. above said leased to Ward for 9. years, who leaeth to the Plaintiff, as is aforesaid: upon which possession of the said Walford, the Defendants by the Commands of E. and M. enter and eject him thereof, as they lawfully might Judgment, Si Actio, &c. And aver, that the said, 1474 l. for

Decl. in ejectment, of a Mannour, Tenements, of sheep-walk, and liberty of two fold.

Barre.

Usury.

Replication.

for gain and profit, reserved as aforesaid exceeds the rate of ten pound, for one hundred pound.

RO. BARKER.

HOUGHTON.

H^{20. J. Rot. 763. s. Brownlow Cornub. ff. J. H. Gent. against F. C. and R. P.} wherefore with force and arms into 4. acres of Land, with the Appurtenances which R. W. Clerk to the same J. demised, for a term which is not yet past, they entred and him from his Farm aforesaid ejected, and other Enormities &c. to the great, &c. And whereupon the same J. by J. H. his Attorney, complaineth, That whereas the same R. the 17. Day of S. Anno Reg. Aug. 29. at Saint E. aforesaid, by his certain Writing, between the said R. of the one part; and the same I. of the other part made, whose other part, with the Seal of the same R. sealed, the same I. here in Court bringeth the Date, whereof is the same Day and Year (amongst other things) demised to the same I. the said four Acres of Land, with the Appurtenances, to hold and to occupy the same four Acres of Land, with the Appurtenances to the same I. and his Assigns, from the third Day of August then last past, unto the end and term of five years, from thence next following; and fully to be compleat and ended, if it should happen the said R. so long to live. By vertue of which Demise, the same I. into the said four Acres of Land with the Appurtenances, entred, and was thereof possessed. And being so thereof possessed, the same F. and R. afterwards, to wit, the eighteenth Day of September, Anno 20. abovesaid, with force and arms, &c. into the said four Acres of Land, with the Appurtenances, which the said R. to the said I. in form aforesaid demised for a term, which is not yet past entred and him from his Farm aforesaid did eject, and other Enormities, &c. With this, that the same I. will verifie, that the same R. W. Clerk, is yet alive, and in full life: to wit at Saint E. aforesaid, &c.

H^{8. Jac. Rot. 2639. ff.} With this, that the same T. will verifie, that the same W. is yet Rector of the Parish Church aforesaid, and surviving, and in full life: to wit at L. aforesaid; And that the said W. from the time of the making of the said Indenture hitherto, was continually resident and inhabiting upon the same Rectory &c.

Decl. in ejectment, brought by a Guardian in Socage.
T. 10. Eliz.
Rot. 1430.
T. 8. Eliz. Rot. 760. the like by an executrix.

T. 23. E. Rot. 510.
T. 16. Eliz. 121. between A and B, the like by an Assign of a Guardian in Socage.

H^{6. Jac. Rot. 2796. s. Brownlow Kane. R. S. Gent.} was summoned to answer T. B. and M. his Wife, of a Plea, wherefore whereas the custody of two Messuages, one Barn, three Gardens, two Orchards, and seven Acres of Land, with the Appurtenances in M. were S. and B. to the same T. and M. in the right of the same M. until the lawful age of R. S. Son and Heir of M. S. belongeth for that the same M. holds her Land in Socage; and the same M. is nearer to the Heir of the said M. and the said T. and M. in the right of the same M. stood in full and peaceable Possession of the said custody the said R. the same T. and M. from the said custody, did violently eject &c. And whereupon the same T. and M. by S. A. their Attorney say That whereas the same M. Father of the said R. whose Heir he is was seised of the Tenements aforesaid, with the Appurtenances in his Demesne, as of Fee: and two Messuages, one Garden and one Orchard, with the Appurtenances in M. aforesaid of the Tenements aforesaid with the Appurtenances held of one W. H. as of his Pannor of V. in the County aforesaid, in fee Socage: to wit, by Fealty onely, for all services: and one Barn, two Gardens and one Orchard with the Appurtenances in M. aforesaid of the Tenements aforesaid, with the Appurtenances held of the Lord the King that now is, as of his Pannor of M. in the County aforesaid in fee Socage,

Socage; to wit, by Fealty onely for all services. And also 7. Acres of Land, with the appurtenances in B. aforesaid residue of the Tenements aforesaid, with the Appurtenances held of the said Lord the King, as of the said Manor of M. aforesaid, in free Socage; to wit, by Fealty onely for all services. And the same M. of the whole Tenements aforesaid, with the Appurtenances in form aforesaid, being seised the same M. of such his Estate died seised, the same R. then within the age of 14. Years; that is to say, of the age of 5. weeks; and yet within the age of 14. Years being, after whose death the whole Tenements aforesaid, with the Appurtenances, descended to the said Ralph, as Son and Heir of the same M. the same R. within the age of 14. Years, as is promised being. And the same Mary is the nearest Heir of the same M. that is to say, Mother of the said R. to whom the same Tenements, with the Appurtenances, cannot descend by Hereditary right from the said R. whereby the custody of the whole Tenements aforesaid, with the Appurtenances unto the lawful age of the said R. that is to say, of 14. Years to the same T. and M. in the right of the said M. for the reason aforesaid both belong. And the same T. and M. in the right of the same M. stood in full and peaceable seisure of the said custody, the same R. the 28. Day of M. Anno etc. 4. the same T. and M. from that custody, the same R. within the age of 14. Years as is premised being, did violently eject: Whereupon they say that they are the worse, and have damage, to the value of 200 l. and thereupon they bring their Suit, etc. And the same R. by J. S. his Attorney cometh and defendeth the force and injury when, etc. and saith that he did not eject the same T. and M. of the custody aforesaid; as the same T. and M. above against him do complain. And of this he putteth himself upon the Countrey. And the said T. and M. likewise Jo. Vef. Oct. Pur. at which Day the Jury etc. as in others who being called, came, and say upon their Oath that the same ejected the same T. & M. from the custody aforesaid, as the said T. & M. above against him do complain; and they assess the damages of the same T. and M. by occasion of the same Ejectment; besides their cost & charges by them about their Suit in this behalf expended to 20 s. & for those costs and charges, to 4 d. Wherefore it is considered, that the same T. & M. recover against the said Robert, their custody of the Tenements aforesaid, with the appurtenances, and their Damages aforesaid, to 20 s. and 4 d. by the Jury etc. and also 10 l. 19 s. 8 d. to the same T. and M. at their request etc. Damages in the whole to 12 l. and the same R. in mercie, etc. And hereupon the same T. and M. pray a Writ of the same Lord the King to be directed to the Sheriff of the Countie aforesaid to cause to be made to them full and peaceable Seisin of the Tenements aforesaid, with the Appurtenances. And it is granted to them returnable here, Tres Trin. etc.

ERROR.

Error.

H 26. Eliz. Rot. 93. s Rooper. R. The Lady the Quen sent to her Justices assigned, to hold Pleas before the same Quen, Her Writ, closed in these words:

E Liz. By the Grace of God &c. To Our Justices assigned to hold Pleas before Us grating. Because in the Record and Proceedings, and also in the levying of a certain Fine, with Proclamation thereupon had in the Court of the Lord Edward the sixth late King of England, Our dear Brother of the Bench at Westminster, in the term of Saint Hillary, Anno, &c. 6. before E. M. Knight, and his Associates, then Justices of the said late King of the Bench aforesaid; Between W. B. now deceased, and J. V. Plaintiffs; and I. L. now likewise deceased Deforcant of the Pannor of D. with the Appurtenances, and often Mess. six Tofts. three hundred Acres of Land one hundred Acres of Meadow one hundred Acres of Pasture, one hundred Acres of Wood and three pound Rent, with the Appurtenances in L. in C. E. H. C. the great H. and C. L. in the County of E. Which said Record and proceedings remaining before us as it is said, manifest Error hath intervened, to the great damage of the said W. B. Son and Heir of the said W. B. as by his great complaint we are informed: We willing the said Error, if any be, in one manner be amended, and to the same W. B. the Son full and speedy justice to be done we command you that inspecting the Record and Proces aforesaid We may cause further to be done thereupon for amending the said Error as of right, and according to the Law and Custom of England, shall be done.

Witness Our Self at Westminster, the 28. Day of January,
Anno, &c. 26.

The Record and Proceedings, whereupon in the said Writ mention is made, follows in these words:

Elizabeth, &c. To Her Beloved and Faithful E. A. Knight, Grating; Because in the Record and Proceedings, and also in the viewing of a certain Fine in the Court of the Lord Edward, late King of England, Our dear Brother in the same Bench at Westminster in the Term of St. Hillary, Anno Regni &c. 6. before E. M. Knight, and his Associates, then Justices of the said late K. of the Bench aforesaid, between W. B. and J. V. Plaintiffs, and J. L. Deforcant, of the Pannor of D. with the Appurtenances, and of ten Mess. six Tofts, three hundred Acres of Land, one hundred Acres of Meadow, one hundred Acres of Pasture, one hundred Acres of Wood, and three pound Rent, with the Appurtenances, in L. C. E. H. C. the great L. and C. W. in the County of E. manifest Error intervened to the great Damage of the said R. W. and J. h's Wife, Cozens and Heirs of the said J. V. Gent. as by their complaint We are informed; We willing the said Error, if any be, be duly amended; and to the same R. W. and J. full and speedy Justice to be done in this behalf: We command you that the Record and Proceedings of the said Fine, with all things touching the same, which are in your custody, as it is said, you distinctly and plainly send
to

to Us, under your Seal, that inspecting the Record and Proceedings aforesaid, We may further therein do what of right, and according to the Customs of Our Kingdome of England, shall be to be done.

Witness, &c.

Pleas at Westminster before E. M. and his Associates, then Justices of the said King at Westminster, of the Term of St. Hillary, Anno Edw. 6. by the Grace of God, &c. 6. and 7. Rot. ff. W. B. and J. V. give to the Lord the King 30 s. for Licence, to compound with J. L. in a Plea of Covenant of the Mannor of D. with the Appurtenances; and of ten Mess. six Tofts, three hundred Acres of Land, one hundred Acres of Meadow, one hundred Acres of Pasture, one hundred Acres of Wood, and three pounds Rent, with the Appurtenances in L. C. H. E. C. &c. and hath the Chirog. admitted in peace by E. M. Knight, Justice in the same Court of the Lady.

ELiz. By the Grace of God, &c. To Our Beloved, J. L. Esq; Keeper of Our Writs of the Bench, Greeting; Because in the Record and Proceedings; and also in the levying of a certain Fine in the Court of the Lord Edward the 6. late King of England, Our dear Brother, in the Bench at Westminster, in the Term of St. Hillary, Anno &c. 6. Before E. M. Knight and his Associates, then Justices of the said late King, of the Bench aforesaid, between W. B. and J. V. Plaintiffs; and J. L. Defendant, of the Mannor of D. with the Appurtenances, and of ten Mess. six Tofts &c. in L. C. &c. in the County of E. Manifest Error intervened to the great Damage of the said R. W. and J. his Wife, Cozens and Heirs of J. V. Gent. as by their complaint We are informed: We willing the said Error (if any be) in due manner to be amended, and full and speedy Justice done to the same R. and J. in this behalf, We command you that the Transcript of the foot of the Fine aforesaid, with all things touching the same which are in your custody, as it is said, you send to Us distinctly and plainly under your Seal, and this Writ; so that we may have them where-soever we shall be in England, that viewing the Transcript of the foot of the Fine aforesaid, We may further cause to be done about the amendment of the Error therein, what of right, and according to the Law and Customs of the Kingdome of England, shall be to be done.

Witness, &c.

Essex, Command J. L. that he hold with W. B. and J. V. the Covenant, &c. of the Mannor of B. with the Appurtenances and of ten Mess. six Tofts &c. in L. C. C. H. &c. and unless &c. And the Concord is such (to wit) that the said J. L. acknowledged the aforesaid Mannor, Tenements, and Rent, with the Appurtenances to be the right of the said J. V. as those which the said J. V. and W. have of the gift of the said J. L. And those he hath remised, and quit-claimed from himself and his heirs, to the same J. V. and W. H. and the Heirs of the same J. V. for ever. And for this acknowledgment, rem se quit, claim Fine and Concord, the same J. V. and W. have granted to the said J. L. the aforesaid Mannors, Tenements, and Rent with the Appurtenances. And those they have rendered to the same J. L. in the same Court, to have, and to hold to the same J. L. and his Heirs for ever, of the chief Lords of the Fee. And besides, the same J. V. and W. have granted for themselves, and the Heirs of the said J. V. that they will warrant to the same J. L. and his Heirs the aforesaid Mannor, Tenements, and Rent, with the Appurtenances against them and the Heirs
of

of the said J. V. for ever, &c. E. M. This is the final Agreement made in the Court of the said King at Westminster, in Oct. Hill. Anno. &c. of Edw. by the Grace of God, &c. and in the Dominions of the Church of England, and Ireland, Supream Head from the Conquest, 6. before E. M. H. B. J. H. and W. C. Justices, and others of the Lord the King there present, betwix W. B. and J. V. Plaintiffs, and J. L. Deforcant, of the Mannor of D. with the Appurtenances, ten Pesh. six Tolls, &c. in L. C. &c. whereof a Plea of Covenant was summoned betwix them in the same Court; to wit, that the said J. L. hath acknowledged the said Mannor and Tenements, with the Appurtenances, to be the right of the said J. V. as the same which the said J. and W. have of the gift of the said J. L. and those he hath remised, and quit-claimed from himself and his Heirs, to the same J. and W. and the Heirs of the same W. for ever: And for this acknowledgment, remise, quit-claim, bind and concord the same J. V. and W. have granted to the same J. L. the said Mannor and Tenements with the Appurtenances, and them have rendered to him in the same Court; to have and to hold to the same J. L. and his Heirs of the chief Lords of the Fee for ever by the services which appertain to the said Mannor and Tenements. And the same J. V. and W. have granted for themselves, and their Heirs, the said Mannor and Tenements with the Appurtenances, against the said J. V. and W. and the Heirs of the said J. for ever. Essex, according to the form of the Statute.

The first proclamation was made such a day and year, &c. the Second proclamation was made such a day and year, &c. And so of the rest of the proclamations untill 16. Proclamations were made, such a day and year, &c. in the same Term, &c. Eliz. by the grace of God, &c. to her beloved Tho. Crompton, Esq. Her Chirographer of the Bench &c. greeting: because in the Records & Proceedings & also in the leying of a certain fine in the Court of the Lord Edw. the 6. late King of E. our dear Brother, in the Bench at Westm. in Hilary Term, Anno. &c. 6. before E. M. Knight, and his associates then Justices of the said Lord the King of the same Bench between W. B. and J. V. Plaintiffs and J. Lee Deforcant of the Mannor of D. with the appurtenances and of 10. Pesh 6. Tolls &c. in L. C. &c. in the Contry of Essex manifest Error hath intervened to the great damage of R. W. and J. his wife, coheirs and heires of I. V. Gent. as by their great complaint we are informed: We willing in due manner to amend the said Error (if any be) and to do to the same R. and J. full and speedy Justice in this behalf, we command you that the Record and Proceedings of the note of the said fine, with all things touching it which are in your Custody, you send to us diskintly and plainly under your Seale, and this writ, so that we may have them in Cor. Aix. wheresoever we shall then be in England, that inspecting the record and proceedings aforesaid we may further cause to be done therein for the amendment of that Error as of right and according to the Law and Custome of our Kingdom of England shall be to be done. Witnessse our selves &c. between W. B. and I. V. Plaintiffs and I. V. Deforcant of the Mannor of D. with the Appurtenances and of ten Pesh. six Tolls &c. in L. C. &c. in the County of Essex, whereof a Plea of Covenant was summoned betwix them &c. to wit, that the same J. L. had acknowledged the said Mannor, with the Appurtenances to be the right of the said J. V. as those which the said W. and J. have of the gift of the said J. L. and those he hath remised, and quit-claimed for himself and his Heirs, to the same J. V. and W. and the Heirs of the said J. for ever. And for this acknowledgment, remise and quit-claim of the fine, &c. the same I. V. and W. granted to the said J. L. the said Mannor and Tenements, with the Appurtenances which they rendered to him &c. To have and to hold to the said J. L. and his Heirs of the chief Lords of

of the Fee, by the Services which appertain to the said Mannor and Tenements for ever. And the same J. V. and W. grant for themselves & the Heirs of the said J. that they will warrant to the same J. L. and his Heirs, the aforesaid Mannor, with the Appurtenances, against the said J. V. and W. and the Heirs of the said J. for ever.

ff. Essex. ff. C. Octob. Hill. An. Regni, Edward by the Grace of God, &c. from &c. the 6. Inqri. Proclam.

Edward the 6. By the Grace of God, &c. To the Sheriff of Essex, Graciously Command I. L. that justly and without delay, he keep with W. B. and I. V. the Covenant between them made of the Mannor of D. with the Appurtenances and of ten Mess. six Totts three hundred Acres of Land, one hundred Acres of Meadow, one hundred Acres of Pasture, one hundred Acres of Wood, and three pound Rent, with the Appurtenances in L. C. &c. And unless he shall do it, and the same W. and I. shall secure you in the prosecution of his Claim, then summon by good Summoners the same I, that he be before Our Justices at Westminster in Oct. Hill. to shew wherefore he hath not done it. And have you there the Summons, and this writ.

Witness Our Self, &c.

For twenty Shillings paid into the Chamber to E. W. by R. for the Fine within written, who affirmeth, that the said Tenements do not exceed the value of ten pounds by the year. Pledges to prosecute Jo. Coo. and R. Coo. summoners J. Denn, R. Fenn, per H. 6. 7. Edw. 6. Rot. 21. paid 20 s. T. Cotton, T. Pope Knight, Sheriffs afterwards, to wit, upon Wednesday after Octob. Pur. B. Maria, that same Term before the Lady the Queen at Westminster, came the same W. B. the Son, by M. M. his Attorney, and saith that the said W. B. the Father, at the time of the levying and recording the same Fine, was seized of the Mannor and Tenements aforesaid, with the Appurtenances in his Demesne as of Fee. And further the same W. B. the Son saith, that in the Record and Proceedings aforesaid, and also in the levying of the said Fine, it is manifestly erred; for that whereas upon every Fine, with Proclamations, according to the form of the Statute in this case provided, sixteen several Proclamations ought to be proclaimed within one year after the levying of such Fine. And that every Proclamation of the said Proclamations, should be publicly made and proclaimed in the open Court of the Bench of the said Lady the Queen, within the time, upon severall days (all Pleas in the same Court in the mean time ceasing) in this; to wit, that the thirteenth Proclamation was made such a Day, Term and Year; and that the fourteenth Proclamation was made the same Day Term and Year; And so the day of the proclaiming of the said sixteen Proclamations was upon one and the same day, and not upon divers days, against the form of the Statute for such Proclamations made and provided.

And that E. now the Wife of A. R. is the Daughter and Heir of the said J. L. to whom the Estate in Fee-simple of the Mannor and Tenements aforesaid with the Appurtenances by the same Fine was granted.

And the same W. B. prayeth a Writ of the said Lady the Queen, to premonish the same A. and E. to be before the same Lady the Queen, to hear the Record and Proceedings aforesaid: and it is granted, &c. And the Sheriff is commanded that he make known, &c. wheresoever &c. to hear the Record and Proceedings aforesaid, if &c. And further &c. the same day is given, &c.

Essex, ss. At which day before the Lady the Queen at Westminster, came the said W.B. by his said Attorney: And the Sheriff returned, that he by vertue of the same Writ to him directed, made known to the said A. and E. to be before the said Lady the Queen at the day and place aforesaid; as by the same Writ to him it was commanded by M.R. and J. B. honest, &c. Which same A. and E. so pre-admonished, and the fourth day of the Plea being solemnly called by J. B. their Attorney, likewise came: Whereupon the same W. as before saith, that in the Record and Proceedings aforesaid, and in the leying of the said Fine the Error alleadged, is manifest Error, as by him, in form aforesaid, is alleadged; And prayeth, that the said Fine for the Error aforesaid, and other Errors in the Record and Proceedings aforesaid found, may be rehooked, annulled, and taken altogether for nothing. And that he, and all which he hath lost by occasion of the said Fine, may be restored; and that the same A. and E. may re-joyn to the said Error: Whereupon the same A. and E. as to the said matter abobe assigned for Error, that although it often appear upon Record, that the said thirtenth Proclamation was made such a day and year; and that the same fourtenth Proclamation was made the same day of November, in the same year: Nevertheless the same A. and E. say, that by the Note of the same Proclamations, which in the custody of T.C. Chirographer of the said Lady the Queen of the same Bench, now remain by which the then Chirographer the said thirtenth Proclamation, and the Proclamation upon the back of the foot of the said Fine, which in the custody of the said J. L. Baxper of the Writs of the same Court, remaineth upon Record, and remaineth in form aforesaid noted it manifestly appeareth, that the said thirtenth Proclamation was made the one and twentieth day of November Anno 22. of the late Queen Mary I. and not the same day year, and moneth, &c. And also that the fourtenth Proclamation was made the thre and twentieth day of November, in the same year: And the same A. and E. pray that the said thirtenth Proclamation in that behalf, by the Court of the Lady the Queen here according to the form of the Statute &c. may be amended. But because it is unknown to the Court of the Lady the Queen here whether the allegation of the said A. and E. in this behalf be true or not; It seemed expedient to the same Court, that the said Court should be certified of the premises whereby it is commanded to the said T.C. Chirographer, of the Lady the Queen of the Bench here, that the Note of the Fine aforesaid in his custody upon Record remaining being searched, he forthwith certifie to the said Lady the Queen, wheresoever &c. the same Note, together with the same Writ of the said Lady the Queen to him directed; which said Chirographer of the Lady the Queen doth certifie, that he by vertue of the said Writ, searched the Note of the Proclamations of the said Fine, which are in his custody upon Record, and therein found the Note of the same Fine, which follows in these words:

According to the form of the Statute the first Proclamation was made the sixth day of Feb. in the Term of St. Hillary, Anno 7. Regis, within witten: The second Proclamation was made such a day the same term. The third Proclamation &c. And so until the sixtenth Proclamation, 28. day of November, the same Term; which said Writ is filed amongst the Records without day: whereupon the same A. and E. pray, that the said 13. Proclamation by the Court of the Lady the Queen here, according to the form of the Statute, may be amended, &c. And because the Court of the said Lady the Queen here will further advise of and upon the premises, pay is there of given to the parties aforesaid, before the said Lady the Queen here, untill in the morrow of the Holy Trinity, wheresoever &c. because the Court of the said Lady the Queen thereof, not as yet, &c. At which day

day before the Lady the Queen at Westminster, came the parties aforesaid by their said Attorneys: whereupon all and singular the premises being seen and by the Court of the said Lady the Queen, fully understood, and mature deliberation being thereupon had, for that it appeared to the Court of the said Lady the Queen here, that the said thirteenth Proclamation, so written upon the back of the foot of the Fine aforesaid, to be made the 23. day of Novem. Anno Mariae Reginae primo, was written by the impression of the Chirographer; whereas it ought to have bin written, that the same thirteenth Proclamation was made the said 21. day of November, in the same Term: Therefore it is considered, that the said thirteenth Proclamation upon the back of the foot of the said Fine, and in the same Record, shall be inscribed, that the same Proclamation was made the 21. day of November. &c. Whereupon the same A. and E. say, that neither in the Record and Proceedings aforesaid, nor in the levying of the said Fine, it is in any thing erred: And so likewise pray, that the Court of the Lady the Queen here would proceed to the Examination of the same Record and Proceedings; and also of the Error aforesaid. And because the Court of the said Lady the Queen here, are not yet advised of giving their judgment of and upon the premises, Day thereof is given to the parties aforesaid, to be before the Lady the Queen wheresoever, &c. of hearing their Judgment thereof; for that the said Court of the Lady the Queen thereof, have not as yet, &c.

The Lady the Queen hath sent to T. C. Chirographer of the Bench Her Writ Close in these words:

Eliz. &c. To Our Beloved, T. C. Esq. greeting, Because in the Record and Proceedings; and also in the levying of a certain Fine in Our Court at Westminster, in the Term of St. Michael, Anno &c. before J. D. &c. between R. P. Plaintiff, and T. H. Gent. and Eliz. then his Wife, Defendants, by Our Writ, of the Pannor of C. &c. in the County of Norf. manifest Error intervened, to the great damage of W. B. Esq; and of the same Eliz. now his Wife, as by the great complaint of the same W. and E. We are informed: We willing the same Error, if any be, &c. Command you, that the Transcript of the Note of the Fine aforesaid, being in your custody, as it is said, with all things touching the same, to Us, under your Seal, &c.

And he certifies: And a Writ to the Chief Justice of the Bench, to certify the Record and Proceedings of the same Fine, with all things touching the same, &c. And he certifies the Entry of the Queens Shiber; and a Certiorare to J. L. Custos trin. of the Bench to certify the Transcript of the foot of the said Fine, which is in his custody. And he certifies the Writ of Dedimus Possitatem, the Precipe and Concord: This is the final Agreement. And the Proclamations afterwards: to wit, upon Friday next, after the morrow of the Holy Trinity, that same Term before the Lady the Queen at Westminster came the same W. B. and E. his Wife; to wit, the said W. by C. his Attorney: And the same E. by the same C. her Guardian, by the Court of the said Lady the Queen here, specially admitted; and say, that the same E. before the levying of the said Fine, was of the Pannor, &c. in her Demeasne as of Fee. And being so thereof seised afterwards; and before the levying of the said Fine; to wit, such a day and year a Marriage was had between the same T. H. and Eliz. the same T. H. then being within the age of fourteen years: And the same E. within the age of twelve years, whereby the same T. and E. were seised of the Pannor aforesaid in their Demeasne, as of Fee in the right of the same E. And being so thereof seised in the same Term of Saint Michael Annis, &c. the same Fine be-
tween

twen the same R.P. and the same T. H. and E. was letted in ſc: 2m as aforeſaid, the ſame Eliz. at the time of lettyng of that Fine being within the age of twelbe years: and afterwards at the age of fourteen years of the ſaid T. to wit, ſuch a day and year at H. the ſame T. renounced & reſuſed the ſaid Marriage, whereby the ſame Marriage was void, and ineffectual: and afterwards; to wit, the 10. day of J. An. 27. the ſame Elizabeth took to wife the ſame W. B. and the ſame day whereſoeber, &c. further ſay, that in the Record and Proceedings, and alſo in the lebyng of the ſaid Fine, it is manifeſtly erred, becauſe they ſay, that the ſaid Eliz. at the time of the lebyng, &c. was within age, &c. And pray a Writ to premonſh the ſame R. of being beſore the ſaid Lady the Queen, to hear the Record and Proceedings aforeſaid: and it is granted to them, &c. Therefore the Sheriff is commanded, that he by honeſt &c. make known to the ſaid Lady the Queen, that he be beſore the ſaid Lady the Queen ſuch a day whereſoeber, &c. to hear the record and proceedings aforeſaid. id. if &c. And further &c. the ſame day is given to the ſaid W. B. and E. &c. At which day beſore the ſaid Lady the Queen came as well the ſaid W. by his ſaid Attorney as the ſaid E. by her Guardian aforeſaid. And the Sheriff returned that the ſaid R.P. had nothing, &c. nor is to be found in the ſame. Therefore as beſore it is commanded the Sheriff, that by honeſt &c. he make known to the ſaid R. that he be beſore, &c. to hear, inform aforeſaid, if &c. And further &c. the ſame day is given to the ſaid W. and E. &c. At which day beſore the ſaid Lady the Queen at Weſtmiſter, came the ſaid W. by his ſaid Attorney, and the ſame E. by her Guardian aforeſaid. And the ſaid Sheriff returned, that the ſame R. hath nothing in his Walywick, whereby he could make known unto him, nor is found in the ſame.

And the ſame R. the fourth day of the Plea being ſolemnly called, came not: Whereupon the ſame W. and E. as beſore, ſay, that in the Record and Proceedings aforeſaid; and alſo in the lebyng of the ſaid Fine, it is manifeſtly erred, alleadging for the Error, by them as in form aforeſaid, was alleadged: And pray, that the Fine aforeſaid for that Error, and other in the Record and Proceedings aforeſaid found, may be revoked, annulled, and altogether taken for nothing: And that the ſame W. and E. may be reſtozed to all thing, which they by the occaſion of the ſaid Fine have loſt, &c. Whereupon the perſon of the ſame Elizabeth being ſeen and inſpected, and by diligent Examination of the ſame E. and of divers of her friends, by the Court, concerning the premiſſes had; and upon the faithfull relation and teſtimony upon their Oath, that the ſame E. is at the preſent within the age of one and twenty years; to wit, E. B. Citizen and Goldſmith of London, of the age of thirty ſix years, and M. the wife of R. M. Citizen of London, of the age of &c. It is conſidered by the Court, here that the ſame E. is at the preſent within the age of one and twenty. And ſo the ſame Elizabeth by the ſame Court here is at the preſent admitted to be within the age of one and twenty years. But as to the Revocation of the Fine aforeſaid, for the occaſion aforeſaid, for that the Court here will further adviſe themſelves, beſore they will further proceed in that behalf, Day thereof is given to the ſame W. and E. in the ſtate, as it is now beſore, &c. untill, &c. to hear their Judgment therein, for that the Court of the ſaid Lady the Queen not as yet, &c. At which day, &c. whereupon all and ſingular the premiſſes being ſeen, and by the Court of the Queen here fully underſtood, and mature deliberation being thereupon had, It is conſidered, that the ſame Fine for the ſaid Error, and others in the Record and Proceedings aforeſaid found, be revoked, annulled, and taken for nought. And that the ſame W. and E. unto all things which they by occaſion of the ſaid Fine have loſt, be reſtozed, &c.

The Quen &c. To Our Faithful and Beloved J. L. Esq; Keeper of Our Writs of the Bench greeting; Because in the Record and Proceedings; and also in the levying of a certain Fine before, &c. Our Justices of the said Bench between R. P. Plaintiff, and T. P. and Elizabeth his Wife, Defendants, of the Pannoz &c. re' in Cro' sce' Trin. manifest Error intervened, as by the inspection of the foot of the Fine aforesaid; and also in the Record and Proceedings, in levying of the said Fine, which before Us at the Suit, &c. We have caused to be brought, and it appeareth to Us upon the Record, And We in Our Court before Us, for the Errors, in levying of the said Fine, and in the Record and Proceedings thereupon found, have considered, that the foot of the said Fine be withdrawn from the File of the Fines aforesaid, and cancelled. Therefore We command you, that the foot of the said Fine, which is under your custody, so fully and intirely, as before you it remaineth, be withdrawn from the Files aforesaid, and sent before Us from Easter day in fifteen dayes, wheresoever we shall then be in England, to be cancelled, according to Our consideration aforesaid. And have you there this Writ, &c.

Certiorare to the Custos brevium, to certify the foot of a fine.

Escheate.

PAs. 41. Eliz. Rot. 96. amongst the pleas of land s Brownlow Leic. H. R. B. Esq. by W. B. his Attorney demandeth against E. H. one Mess. fifty Acres of Land, twenty Acres of Meadow and ten Acres of Pasture with the appurtenances in H. which Rich. held of T. B. the Father of the said Ro. whose heir he is. And which ought to revert to the same Ro. as his Escheate because the same Ro. was a bastard and died without Heirs, &c. And whereupon the same R. by W. B. his Attorney saith, that the same Richard held of the same T. the tenements aforesaid, with the appurtenances as of his Pannoz of S. in the County of War, by homage fealty and Escuage of the Lord the King by forty shillings when it should happen; and unto more, more; and unto less, less; and to do Suit in the Court of the Pannoz of the same T. in S. aforesaid, from three weeks, &c. at that Pannoz, of which same Services, the same T. was seised by the hands of the same Rich. as by the hands of his true Tenant thereof, as in fee and right in the time of peace, in the time of the Lady Elizabeth now Quen. And the said Rich. died in the Homage of the said T. And from the same T. descended the right &c. to the same Ro. as Son and Heir of the same T. And into which, &c. for that &c. And thereof he bringeth Suit &c.

And the same E. by W. A. his Attorney, cometh and defendeth his right when &c. And saith that the said Ro. Admon, because he saith that the same Ro. held not the Tenements aforesaid, with the Appurtenances of the same T. B. as of his Pannoz of S. in manner and sozin as the same Ro. by his Writ and Declaration aforesaid above supposeth. And of this he putteth himself upon the Countrey, and the same Robert likewise. Wherefore the Sheriff is commanded, that he cause to come here, Oct. Mich; 12, &c.

Escheat, and declares that the Tenant was a bastard, and died without Heirs. P. 22. Eliz. Rot. 1058. P. 9. Eli. Rot. 1416. disclaim in a Writ of Escheat, and Judgment & Seisin for the Demandant. See the new book of Entries, fol. 319. & 315. a. title Eschere, 4. & 5. Seisin de Services. See Novus Nar. fol. 263. And see the Articles, ejusd. Nar. fol. 28. 66. T. 13. H. 7. Rot. 117. Escheat brought by the King. P. 15. Eli. Rot. 1316. P. against B.



C c c

M. 25;

Count. in a
Writ of
Escheat, for
for that the
Tenant died
without heir.

Count.

Quere.

The Tenant
saith, that the
Tenement
was held for
life; and that
the Tenant
which died,
&c. disseised
him; and that
he re-entred,
and continues
his possession.

Issue upon the
travers of the
disseisin,

Default at the
Bar,
P. H. H. Cape
awarded.
Effoyne cast
de Servicio
Regis.
Adjournment
of the effoyne.
The Effoyner
bringeth his
Warrant under
the Privy
Seal of the
King.
Note that it is
not good.

M 35. H. 6. Rot. 503. s. Wideslade. Midd. ff. otherwise as it ap-
peareth in Mich. Term, 33. Rot. 652. It is thus contained Midd.
ff. E. Abbot of the Monastery of St. Peter, Westminster, by R. L. his
Attorney demandeth against W. H. one Mess. and six Acres of Land, with
the Appurtenances in Westminster which J. S. held of h. m., and which
ought to revert to the same Abbot as his Escheate, for that the same J. died
without Heir &c. Vide Firz. Natura br. Fol. 144. L. accord. And declares that
he held the tenements aforesaid of the said Abbot, by homage, fealty, & rent of
five shillings four pence, the same Mess. for two shillings; and the same six
Acres of Land by three shillings four pence (and saith not the Pannor) see
the Book of Entries Fol. 314. Title, Escheate, 1, 2. notwithstanding three
hold of the Lord the King in Capite as in the right of his Crown of Eng-
land, 4, 5, 6. accord. And see the new Narr. fol. 263. accord. And An-
ticles to the new Narr. fol. 286. accord. For that he held of the Deman-
dant by Fealty, &c. Pet see the Count next before to the contrary, which
note and search every year at the Feasts of Easter; and St. Mich. the Arch-
angel by equal portions to be paid, and to do Suit at the Court of the Abbot
at his Monastery of W. at the Will. of W. once by the year; to wit at the
next Court there after the Feast of the Nativity of Saint John the Bap-
tist yearly to be held: of which said Services, the same Abbot was seised
by the hands of the same Jo. as by the hands of his true Tenant; to wit of
the same Homage, and Suit of Court, as of Fee in the right of his Mona-
stry aforesaid and of the Rent aforesaid in his Demesne, as of Fee in the
right of the same Monastery in the time of peace, in the time of the Lord
the King now: and which ought to revert to the same Abbot, for that the
same J. died without Heir &c. And thereof he bringeth Suit, &c.

And the same W. S. by W. M. his Attorney, cometh and defendeth,
and saith Actio non; because he saith that before the same J. S. had any
thing in the Tenements aforesaid, one Elizabeth, Daughter of Rob. Clerk,
was seised in fee of the same Tenements, and took to Husband the same
W. S. who had Issue between them one John &c. that Eliz. died seised, and
that the Husband held the same as Tenant, by the courtesie of E. and was
seised for the term of his life; and that one W. S. disseised him, and in-
feoffed the same J. S. in fee: Whereupon the same J. S. re-entred upon the
same, W. S. and was and still is, thereof seised as of his frank Tenement,
Judgment si Actio; &c.

And the same Abbot protesting, that the same Elizabeth hath nothing,
&c. for Plea, that he ought not to be barred, because he saith, maintained
his Declaration and traverseth the disseisin of S. by S. and Issue upon the
Travers, and so far awarded, returnable Oct. Hill. 12. &c. Afterwards
the Process being continued between the parties aforesaid, of the aforesaid
Plea by Juries thereof between them respited here, until this day; to wit,
in the morrow of All-souls, Anno Regni. &c. 34. And now here at this
day came the said Abbot by his Attorney aforesaid; and the same W. the 4.
day of the Plea, being so emmy called, came not. Wherefore let the Plea
and Lands aforesaid with the Appurtenances, be taken into the hands of
the Lord the King and let him be summoned, that he be here 15. nam. Pas. At
which day, here came the said Abbot, by his Attorney aforesaid; and the
same W. S. caused himself to be effoynd, De Malo. de Servizio which is in
the service of the Lord the King against the said Abbot in the same Plea;
and had thereof day by Jo. E. his Effoynor here until this day; to wit, in
eight days of St. Mich. Anno &c. 35. And now here at this day cometh
the same Abbot by his Attorney aforesaid. And hereupon the same J. E. his
Effoynor &c. for the same W. S. bringeth here into the Court certain Let-
ters of the same Lord the King, Sealed with his private Seal, testifying the

the same W. at the aforesaid xv. nam. pas. to be in the Service of the said Lord the King now; which said Letters follow in these words:

Henry, By the Grace of God, King of England and of France and Lord of Ireland, To Our Justices of the Bench, greeting: Inasmuch as the Abbot of St. Peter, Westminster, saith an Action depending before you against W. S. Peonant of our Buttery: And in the Process by the same Abbot taken against him, he was essopned, being in Our Service at the Quinzime of Easter last past, and J. E. being Esopner, deposed and sworn that he so was, We therefore certifie unto you, that the said William was in Our Service before the said Quinzime, at the same Quinzime, and every time thence.

The Warrant.

Yeoven under Our Privy Seal at *Coventry*, the Twelfth Day of *October*, in the 25. Year of Our Reign.

And herupon as well the same Plea, as the Letters aforesaid, being read and heard; and by the Court here fully understood, it seemed to the Justices here, that these Letters are not sufficient in Law, to excuse the said Default of the same W. at the said xv. nam. Pas here made; nor to warrant the said Esopn by his said Esopner cast, &c.

The Warrant is sufficient, and the Esopn quashed.
Nota.

See 35. H. 6. Fol. 2. That such Esopn was quashed for three causes: First because it was not under the Great Seal of England. Secondly, because the Warrant was not according to the Writ of Escheat; to wit, the Writ was to answer to the Abbot of the Monastery of Saint Peter Westminster. And the Warrant was but only to the Abbot of Westminster. Thirdly, because such Warrant rectifieth not in what Writ such Esopn was cast. *See 4. and 5. Philip and Mary. Dier, fol. 154. pl. 16.*

Nota.

And herupon the same Abbot prayeth Seisin of the Messuages and Lands aforesaid, with the Appurtenances for default of the said W. S. at the aforesaid xv. Pas made to him to be adjudged, &c. Whereupon, then and there, came one J. M. in his proper person; and saith that one Elizabeth who was the Wife of the said W. S. was seiser of the said Tenements in fee, and took to Husband the said W. who had Issue Jo. Say, and died without Heir of his Body born, and the same Elizabeth dies, and leaves a Discent to himself of the same Tenements, as Cozen and Heir of the same Elizabeth; And saith, that the said W. S. had nothing but for his life, as Tenant by the courtlesie, the Reversion after the death of the said William to the same J. M. and his Heirs belonging. And the same J. M. saith, that he is within the age of one and twenty years: And this the same Jo. is ready to verifie. Whereupon, for that he came before the Judgment given prayeth, that he may be admitted to defend his right; and that the said Point may remain unto the full age of the same John &c.

He in reversion, prayeth to be received to defend his right.

And the same Abbot protesting, that the same J. M. is not the Cozen and Heir of the said Elizabeth, saith, that he by any thing before alleadged, from having his Seisin of the Tenements aforesaid, ought not to be delayed, nor the same J. M. ought to be admitted to defend any right therein, because he saith, that the same J. M. hath nothing, nor at the Telle of the Writ the four and twentieth of May, Anno 31. of the King that now is, nor any time afterwards had the reversion of the Tenements aforesaid: And this he is ready to verifie. Whereupon he prayeth Judgment, and his Seisin of the Tenements aforesaid, with the Appurtenances for the default of the same W. to him to be adjudged, &c.

See Kellway, fol. no. pl. 32. & fol. 160. pl. 1. The Demurrer is prayed may remain until the full age, &c.

The Defendant saith that he that is received had nothing in reversion.

And

I Hue that the reversion appertains to the Tenants.

And the said J. M. saith, that the reversion of the Tenements aforesaid, with the Appurtenances, after the death of the same W. belonged to him the same J. M. in such form as he hath above alleadged. And upon this, he putteth himself upon the Countrey. And the same Abbot likewise, &c. Therefore &c.

Sureties found for the mean profits.

By the Stat. 20.E.1. cap. de defensione juris, because it came to them by a collateral Title, and is an estrang. to the Action,

And hereupon W. M. of the Parish, &c. and H. W. of &c. here in Court personally constituted, undertook for the same J. M. that they would satisfie to the same Abbot the Issues of the Messuage and Lands aforesaid, with the Appurtenances now demanded. In the mean time, if it happen the same J. M. at any day of the Plea, until the Jury shall passe thereof between them, and judgment shall be given to make default, or the same Jury to pass against him.

Stat. 13.E.1. c.3. P.n.Sts. 50.b.St.20. E.1.P.n.Sts. 72. de defensione juris, St.

And Judgment to be given for the same Abbot: Whereupon it is granted by the Justices here, that the same W.M. follow for the same J.M. who is within age, against the same Abbot, in the same Plea, &c.

13.R.2.ca.17. Admission for the Guardian of the Tenant, &c.

Verdict upon the receipt.

H.33.H.6.

Roll.465.P.6.

H.5. Roll.

336.M.19.H.

6.Roll.548.

P.33.H.6.

Roll.402. or

518.

P.15.H.6.

Roll.3274.

H.26. H.6.

Roll.223.

H.5.H.8.Rol.

406.

Nota.

Judgment.

Nothing of mercy, because an Infant.

Afterwards Processe being continued, &c. the Jury find for the Defendant and say that he had nothing, &c. And that he held of the same Abbot, as in the right of his said Monastery, as in the Count. And further saith, that the Tenements aforesaid ought to revert as escheated; for that the same J. S. died without Heir, &c. And that the said J.S. and all those whose Estate, &c. held &c. And that one R. W. late Abbot, &c. was seised as in right, &c. by the hands of J. C. then tenant of the tenement aforesaid with the appurtenances as by the hands of the true tenant (which is repugnant and contrary to the Count) which Note. And that the tenements aforesaid are worth by the Year, &c. ten shillings. And that no fraud or collusion is had between the said now Abbot, and the said W. S. and J. M. for the recovering of the tenements aforesaid with the appurtenances against the forme of the Statute, wherein care is taken that neither Lands or Tenements come to Mortmain in any manner as before spoken. Therefore it is considered that the said now Abbot recover his seisin against the said W. S. and J. M. And the same W. S. in mercy, &c. And nothing of the mercy of the said J. M. because he is within age, &c.

Count

Count. in Estrepe ment.

H 4. H. 8. Rot. 3¹⁷. J. M. Knight, was attached to answer M. C. and W. his Wife, of a Plea; wherefore he made waste and estrepe ment in twenty Messuages, sixty acres of Land, one hundred and twenty acres of Meadow, two hundred acres of Pasture, one hundred acres of Wood, and five hundred acres of Moor, with the appurtenances in E, which the same M. and B. in the Court of the King here, demand against the same J. by Writ of the Lord the King, De forma donationis in descende, depending in the same Plea undetermined, against the Kings prohibition, &c. And whereupon the same M. and B. by E. K. their Attorneys do complain, that whereas they elsewhere (to wit) the fourteenth day of Novemb. Anno Regis 2. out of the Court of Chancery of the said Lord the King at Westminster, in the County of Middlesex, had prosecuted a certain Writ of the said Lord the King, De forma donationis in descende, against the said J. M. Knight, directed to the Sheriff of York, of the Tenements aforesaid, with the appurtenances. By which said Writ, the said Lord the King commanded the said Sheriff, that he should give command to the said J. N. that justly and without delay, he render unto the same M. and B. the same twenty Messuages, sixty acres of Land, one hundred and twenty acres of Meadow, two hundred acres of Pasture, one hundred acres of Wood, and five hundred acres of Moor, with the appurtenances in E, which together, with other twenty Messuages, sixty acres of Land, one hundred and twenty acres of Meadow, two hundred acres of Pasture, one hundred acres of Wood, and five hundred acres of Moor, with the appurtenances T. M. the younger, Knight, J. V. E. S. W. C. and R. M. gave to J. S. late of W. Esquire, and to the heirs of his body issuing, which after the death of the same J. S. and G. Son and Heir of the said J. and M. one of the Sisters of the same G. who held them in her purpart after the death of the said G. to her, out of the same Messuages, Lands, Meadows, Pastures, Woods, and Moor by partition between the same M. and the said B. Sister of the same M. and another Sister and Heir of the same G. thereof made happening; and to William, Son and Heir of the same M. to the said B. Cozen and Heir of the said W. ought to descend by form of the said gift; which said Writ was returnable and returned in the Court of the said Lord the King here of the Bench before R. R. Knight and her Associates, Justices of the said Lord the King of the same Bench, in Oct. Hill, Anno Et. 2. And the said parties by process thereof in the same Court made, have day here untill Oct. Hill, Anno Regis, &c. 4. And the said King now the said Plea depending, inhibiting the same J. N. by his said Writ, that the said J. S. should not do waste or estrepe ment in the Tenements aforesaid, with the Appurtenances against the form of the Statute in this case made and provided, the same Plea depending undetermined, the same J. N. after delivery of the same writ to him made, did waste & estrepe ment in the Ten. aforesaid, with the Appurtenances by the same Writ, De forma Donationis, demanded; to wit, in slitting in every Messuage of the same twenty Messuages of the said Tenements one Hall price twenty shillings, and in selling of two hundred Dakes, price of each five shillings, and in permitting one Kitchin, in every Messuage of the same twenty Messuages to fall to ruine, price of every Kitchin so ruined six shillings eight pence, the same Plea depending undetermined, to the great damage of the same M. and B. and against the same prohibition of the King, and against the form of the Statute aforesaid: Whereupon they say that

Count upon a
Writ of Estre-
pement.

T. 4. H. 6. Rot.
14.

The Estrepe-
ment.

they are the worse, and have damage to the value of one hundred pound; And thereupon they bring their Suit &c.

T²⁰. Eliz. Rot. 437. s. Filmer Ebor Count. in Estrepeement upon a Writ De Droit, between the Lady the Queen, and G. F. Qui tam, &c. And W. H. Esquire.

Court upon a Writ of Estrepeement, on waste, and Estrepeement made after the Writ of Estrepeement, delivered to the Sheriff, and after the Sheriff commanded the Tenant, that he should make no waste. Next friend. M. 13. H. 8. Rot. 735. Court. in Estrepeement for waste made depending Formdon in Descender. H. 4. H. 8 Rot. 317. H. 15. Eliz Rot. 252.

T⁴³. Eliz. Rot. 3353. Derb. H. W. J. J. S. J. C. and T. A. were attached to answer as well to the Lady the Queen, as to T. F. Gent. of a Plea, wherefore they did waste and estrepeement in Woods in C. the Writ of waste of the said Lady the Queen, depending between the same T. F. Plaintiff, and one W. B. and J. his wife, Defendants undetermined, which the same W. B. and J. hold for the life of the same J. against the Queens prohibition, and against the form of the Statute in this case made and provided. And whereupon the same T. F. by T. B. Gent. S. W. Gent. and A. M. Gent. who by the Court of the said Lady the Queen here are admitted to prosecute for the same T. F. who is within age, as the next friends of the same T. F. complaineth, That whereas one G. F. Esquire was seised of the Mannor of W. with the appurtenances in C. aforesaid, and of fourty Messuages &c. in C. aforesaid, to the said Mannor of W. aforesaid, belonging and appertaining, amongst other things infeofed to G. S. Knight, W. W. Esq. and P. W. to have and to hold to the same G. W. and P. and their Heirs for ever, to the use of the same T. F. and the Heirs Males of the body of the said G. lawfully begotten: And for default of such Issue to the use of the said J. for term of his life. And for default of such Issue, to the use of the said T. F. and the Heirs Males of his body lawfully begotten. And for default of such Issue, the remainder thereof to the right Heirs of the same G. F. for ever. By virtue of which Infeoffment, and force of a certain Act in the Parliament of the late King H. the 8. at Westminster, in the County of Middlesex, the 4. day of Feb. An. &c. 37. De usibus in possessionem transferend. made and provided, the same G. was seised of the said Mannor of W. with the appurtenances, in his Demesne, as of Fee; to wit, to him and his Heirs males of his body lawfully begotten, the remainder thereof for default of such Issue to the same J. for term of his life, the reversion thereof after the decease of the same J. to the Heirs Females of the body of the same G. lawfully begotten, the remainder thereof, for default of such Issue, to the right Heirs of the same G. F. for ever. And he being so thereof seised, the remainder thereof to the same J. for term of his life, the remainder thereof as is above limited in form aforesaid belonging. The same G. F. afterwards at Westminster aforesaid, died of such his Estate thereof seised, without Heirs Males or Females of his body lawfully begotten; After whose death the same J. into the Mannor aforesaid, with the appurtenances entered; and was thereof seised in his Demesne as of his frank Tenement, for term of his life, the remainder thereof after the decease of the same J. to the same T. F. & the Heirs Males of his body lawfully begotten, the remainder further thereof, as is above limited in form aforesaid belonging, the same J. being so thereof seised afterwards at W. aforesaid, took to Husband the same W. B. whereupon the same W. and J. in the right of the same J. were seised of the Mannor aforesaid, with the appurtenances in their Demesne, as of frank tenement for the term of life of the same J. the remainder thereof to the said T. F. and the Heirs Males of his body lawfully begotten belonging. And the same W. and J. being so thereof seised, the remainder thereof to the same T. and the Heirs Males of his body lawfully begotten belonging, the same W. and J. in the same Wood, in C. aforesaid, made waste, sale and destruction, against the provision in this case made and provided: For which said waste so by the same W. and J. committed, the same

same T. F. after wards, to wit, the 17. of Novem. An. Rn. 43. prosecuted out of the Court of the Chancery of the said Lady the Queen here at Westminster, in the County of Middlesex then being, a certain Writ of the said Lady the Queen, De verbo against the same W. B. and I. then to the Sheriff of D. directed, by which said Writ, the same Lady the Queen now to the same Sheriff commanded, that he should summon by good Summoners the same W. B. and I. his Wife, that they should be before the Justices of the said Lady the Queen here at Westminster aforesaid in Oct. Hillar. then next following: Wherefore, whereas by the Common Council of the said Lady the Queen of England it was provided that it should not be lawful to commit waste &c. as in the Writ reciting the whole Writ, to the disinheriting of the said T. and against the said provision, as he then said; And that then he should have there the Summoners, and that Writ: At which said Oct. Hillar, before E. A. Knight, and his Associates, then Justices of the said Lady the Queen, of the Bench here, came the said T. F. by his next friends aforesaid: And the Sheriff, to wit, E. C. Esquire, then here returned, that the said Writ thereof to him directed came so late to his hands, that for the shortness of the time he could not execute it: Whereupon then and there, as before, another Writ thereof was made to the same Sheriff in form aforesaid, returnable here in Oct. Pur. then next following: At which said Oct. Pur. here came the said T. by his next friends aforesaid: And the Sheriff, to wit, T. G. returned the same Writ to him in form aforesaid: directed in all things, served and executed, to wit, &c. Whereupon the same Lady the Queen, now at the Petition of the said T. the same Plea depending by another Writ of the said Lady the Queen, out of the Court of the said Queen of the Bench here issuing then to the Sheriff of D. directed, reciting to the then Sheriff, that whereas in the Statute in the Parl. at Gloucester, long since made, amongst other things it is contained, That from the time whereof a Pleint should arise in the City of London by Writ, the Tenant hath no power to do waste or estrepeement in the Tenement, which is in demand the same Plea depending; and that the same Ordinance and Statute in other Cities and Burroughs elsewhere, throughout the whole Kingdom of the said Lady the Queen should be observed, the same Lady the Queen being willing that the said Statute be indubitably observed, commanded the said Sheriff, that the same Plea which dependeth in the Court of the said Lady the Queen in the Bench aforesaid, before her Justices here, to wit, at Westminster, by the said Writ of Waste, between the same T. F. Plaintiff, and the same W. B. and I. Defendants of the Woods in C. aforesaid, which the same T. F. in the same Court of the Lady the Queen here brought against the same W. and I. would not suffer waste to be done in the Woods aforesaid with the appurtenances the same Plea depending undetermined, which said Writ of Estrepeement afterwards, to wit, such a day and year at C. in the County of D. to the same E. C. Esquire, then being Sheriff of the County of D. by the same T. F. was directed to be executed in form of Law: By virtue of which said Writ, the same Sheriff afterwards, to wit, such a day and year at C. aforesaid, the same Writ of Waste in the Court aforesaid depending undetermined: the same I. W. I. I. and T. A. then and there by the command of the said W. B. Waste and destruction in the Woods aforesaid doing, prohibited that the same I. W. I. I. T. and A. should not further do any waste or Estrepeement in the Woods aforesaid, contrary to the form of the Statute in that case made and provided, the same plea depending undiscussed, the same J. W. T. J. and T. A. after the delivery of the same Writ to the same Sheriff, in form aforesaid made. And after the prohibiting of them by the same Sheriff in form as aforesaid made by the command of the said W. B. did waste and estrepeement in the Woods aforesaid; to wit, in cutting in a certain Park called W.

Tarde upon an original Summons in waste. Alias, Summons awarded.

Estrepeement out of the Common-Bench.

Count. in Estrepeement T. xj, Ja. Ror. 2332. Goldsborough between E. of C. and the Countess of C. for Estrepeement, made after a Writ of Estrepeement, delivered to the Tenant.

Park,

No Ekrepe-
ment made,
&c.

Park, in the County aforesaid scurly Dakes price of every one of them scurly Millings in the same Park: specially growing the same Pleade- pending indissolved to the great damage of the said T. and against the form of the prohibition of the said Lady the Queen. And the form of the Statute aforesaid; whereupon he saith that he is the worse, and hath dam- mage to the value of 100 l. And thereof he bringeth Suit, &c. And the same W. J. J. T. & A. by T. C. their Attorney come and defend, &c. and say that they did no fault or ekrepe-ment in the said Woods in C. aforesaid, against the said prohibition. As the said T. F. by his Writ and Declaration afo- said above supposeth. And of this he putteth himself upon the Country. And the said T. likewise, &c.

Entry at the
Common Law
in le poss.

Entry.

T. 13. H. 8. Rot. 693. ff. Tho. Marquis of D. by R. H. His Attorney demandeth against Ar. P. Knight, and Eliz. his Wife, the Pannoz of B. with the Appurtenances as their Right and Inheritance, And into which, the same A. and Eliz. have no entrance, unless after the Demise, which Eliz. G. who was the Wife of E. G. Knight, which held the same in Power of the gift of the same Edward her late Husband, great Grandfather of the same T. whose Heir he is thereof made to R. S. J. G. and J. W. And which after the death of the same E. G. unto the same Thomas, ought to revert, &c. And whereupon he saith, that the same Edw. was sei- sed of the manner aforesaid, with the Appurtenances in his demesne as of fee and right, in the time of peace, in the time of the Lord Henry, late King of England, the 6th after the Conquest, taking thereof the profits, to the value, &c. And from the same E. the right descendeth to one Jo. as Son and Heir, &c. And from the same Jo. the right descendeth, &c. to one Tho. as Son and Heir, &c. And from the same Tho. descendeth the right &c. to the same Marquis, who now demandeth as Son and Heir, &c. And which after the death, &c. And thereof bringeth Suit, &c.

Entry in le
quibus for
Rent.

Entry.

H. 9. & 10. H. 8. Rot. 178. Norff. ff. R. Prior of the Monastery of the blessed Mary of T. in the County of Kent, by J. M. his Attorney de- mandeth against Jo. B. 8 l. rent, with the Appurtenances in the right of his Church of the blessed Mary of T. aforesaid. And of which, the same John unjustly and without judgement, disseised the same Prior afterwards, &c. And whereupon he saith, that he was seised of the Rent aforesaid, in his demesne, as of fee in the right of his Church aforesaid, in the time of peace, in the time of the Lord the King, now taking thereof the profits, to the value, &c. And into which, &c. and thereof bringeth Suit, &c. And the same J. by W. C. his Attorney cometh and defendeth his right, when &c. and saith, that the Tenements from whence the Rent aforesaid is sup- posed to come, are the Pannozs of S. with the Appurtenances in S. afo- said, whereof the same J. is Tenant, as of his free Tenement, which said Pannoz, with the Appurtenances, is out of the fee and demesne of the said Priory. And this he is ready to verifie: whereupon, he prayeth judg- ment, if the same Prior without shewing a special Title to the Court here- ought to have the Rent aforesaid, or his Action against him, &c.

Entry.

Entry.

P. 17. H. 8. Rot. 625. Essex ff. T. L. & R. L. in their proper persons, de-
mand against H. T. Esquire, the Pannoz of H. with the Appurtenan-
ces and one P. ff. and 20 Acres of Land, with the Appurtenances in
K. as their Right and Inheritance. And wherein the same H. hath no en-
try, unless after disseisin, which T. G. thereof unjustly, and without judge-
ment made to the same P. & R. after, &c. And whereupon they say, they
were seised of the Pannoz and Tenements aforesaid, with the Appurtenan-
ces in their Demeasne, as of fee and right, in the time of peace, in the time
of the Lord the King, now taking thereof the profits, to the value, &c. And
in which, &c. and thereof bringeth Suit, &c. And the said H. in his proper
person, commeth and defendeth his right, when, &c. And saith, that before
the day of purchasing of the original Writ of the same T. & R. Tho. H. &
R. L. were seised of the Pannoz and Tenements aforesaid, with the Appur-
tenances. And of one Peast, and 20. Acres of P. adow, with the Appur-
tenances in great W. in the County aforesaid. And also of the Pannoz
of S. with the Appurtenances and of four Peast, with the Appurtenances in
S. in the County of Kent, and also of 6. Messuages, and 100. Acres of
Land, with Appurtenances in S. in the County of Midd. in their Demeasne,
as of fee. And being so thereof so seised, before the day of purchasing of the
said Writ by their certain writing, which the same Defendant, with the
Seals of the same T. & R. here into Court bringeth, whose date is the 20.
day of June, Anno H. 7th after the Conquest demised the Pannozs and Te-
nements aforesaid, with the Appurtenances to one J. S. Widow to hold to
her for terme of her life. And after the decease of the same S. the Pannozs
and Tenements aforesaid, with the Appurtenances, should remain to R.
Son of the same J. and the Heirs of the body of the same R. lawfully be-
gotten. And if it should happen, the same R. to die without lawful issue of
his body begotten then the same Pannozs & Tenements, with the Appur-
tenances, should wholly remain to E. A. K. & E. Daughters of the same J.
and the Heirs of the bodies of the same E. A. K. & E. lawfully begot-
ten; by virtue of which Demise, the same Isabel was seised of the same
Pannozs and Tenements with her Appurtenances as in her free Tene-
ment. And afterwards the same J. died, after whose death, the same Rich.
into the same Pannozs and Tenements with the Appurtenances, as in his
remainder aforesaid thereinto entred, and was thereof seised in his De-
measne, as of fee tail, and of such his estate therein died, seised without
Writ of his body lawful y begotten, after whose death the same E. A. K. &
E. into the Pannozs and Tenements aforesaid, with the Appurtenances,
as in their remainder thereof thereunto entred, and were thereof seised in
their Demeasne, as of fee tail. And afterwards, the same Katharine of
such her Estate therein, died thereof seised without Heir of her body begot-
ten. And the same E. A. & E. survived the same K. and kept themselves
within in the same Pannozs and Tenements, with the Appurtenances,
and were thereof sole seised in their Demeasne, as of fee tail; by right of
Survivorship. And so being thereof seised the same E. took to Husband,
one H. T. Esquire, the Grandfather of the same Henry, now Tenant. And
the same Ann took to Husband, one Jo. R. Knight. And the same Eliz. took
to Husband one E. B. whereby the same Henry T. & E. J. K. & A. & T. B.
& Eliz. were seised of the Pannozs and Tenements aforesaid, with the
Appurtenances in their Demeasne, as of fee tail in the right of the same
Emme, Ann, & Eliz. and of such their Estates, died thereof seised. After the
death of which said Henry T. the Grandfather and Emme, to the whole part

Entry in le part.

Prin.

Aid prayed of
one parcener
in tail of two
other parcer-
ners of divers
descents, who
present, joynt
in ayd and
vouch.

of the same E. to her out of the Mannors and Tenements aforesaid, with the Appurtenances hapning, descended to the same H. T. now Tenant, as Cosen and Heir of the same E. of her body lawfully begotten, to wit, as Son of Humphrey, Son of the said Emme. And after the death of the same Jo. R. and Ann, the whole part of the same A. to her out of the Mannors and Tenements aforesaid, with the Appurtenances hapning, descended to one J. K. Knight as Son and Heir of the same A. of her body lawfully begotten. And after the death of the same T. B. and Eliz, the whole purpart of the same Eliz, to the same Eliz, out of the Mannors, Tenements aforesaid, with the Appurtenances descended to Eliz, and Katherine, and as Daughters and Heirs of the same E. Wife of the same T. of her body lawfully begotten, whereby the same H. T. now Tenant J. R. the Son, E. and K. Daughters of Eliz, into the Mannors and Tenements aforesaid, with the Appurtenances entred, and were thereof seised in their Demesne, as of fee tayl. And the same Eliz, Daughter of the same E. B. of her purpart aforesaid, to her out of the Mannors aforesaid, with the Appurtenances in fee in aforesaid hapning, being seised. The same Eliz, took to her Husband, one J. W. and the same Katherine took to her Husband one J. G. by which the same J. W. and E. Jo. G. and K. were seised of that purpart with the Appurtenances in their Demesne, as of fee tayl in the right of the same K. and Eliz. And the same H. T. now Tenant J. R. Son, J. W. and Eliz, his Wife, J. G. and Katherine his Wife, of all the Mannors and Tenements aforesaid, with the Appurtenances in fee in aforesaid, being seised before the day of the purchasing of the said Writ, partition was had between them at London, &c. of all the same Mannors and Tenements aforesaid, with the Appurtenances; by which said Partition, the same Mannor of H. and the same Tenements, with the Appurtenances in K. now demanded, were allotted and assigned to the same Henry, now Tenant, in the allowance of his whole purpart to him, out of the Mannors and Tenements with the Appurtenances hapning; and the same Tenements, with the Appurtenances in great Waltham; and also the same Mannors, & Tenements, with the Appurtenances in the County of Kent, were allotted and assigned to the same Jo. R. the Son, in & allowance for his whole purpart to him out of the Mannors and Tenements aforesaid, with the Appurtenances hapning, And the same Tenements, with the Appurtenances in S. were allotted and assigned to the same Jo. W. and Eliz, his Wife, and I. B. and Kath, his Wife, in allowance for the whole purparts of the same Kath, and Eliz, to them out of all the Mannors and Tenements, with the Appurtenances hapning. By pretext of which Partition, the same H. T. now Tenant, into the Mannors and Tenements aforesaid, with the Appurtenances to him, by the same Partition allotted and assigned, was, and yet is thereof seised in his Demesne, as of fee tayl. And also the same Jo. R. the Son into the same Mannor and Tenements to him, by the same Partition allotted and assigned, entred, and was, and yet is thereof seised in his Demesne, as of fee tayl. And likewise the same Jo. W. and Eliz, his Wife, and Jo. G. and Kath, his Wife, into the same Tenements with the Appurtenances to them, by the same Partition allotted and assigned, entred, and were, and yet are thereof seised in their Demesne, as of fee tayl in the right of the same Eliz, and Kath. And so the same H. T. now Tenant, saith that he holdeth, and at the day of the purchasing of the original Writ aforesaid, and always afterwards held the same Mannor and Tenements aforesaid, with the Appurtenances in the same Writ specified, in coparcenary with the same Jo. R. Son, Jo. W. and Eliz, his Wife, and Jo. G. and Kath, his Wife, in fee in aforesaid, without whom he cannot answer the same Plea, in the same plea, & being the plea thereof to judgement. And pray ayd of the same Jo. R. the Son Jo. W. and Eliz, and Jo. G. and Kath, who are present here in Court, in their proper persons.

sons, and cræly joyn themselves to the same H. in aid against the same Plaintiff, in the same Plea. And hereupon the same H. J. K. the Son J. W. and Eliz. and Jo. G. and Katherine vouch thereof to warrant Tho. F. who is present here in Court in his proper person: and cræly the same Pannoz and Tenements, with the Appurtenances, to the same H. J. K. the Son Jo. W. and Eliz. I. G. and K. warranteth &c. And hereupon the same Plaintiff demandeth against the same T. F. tenant, by his Warrant the aforesaid Pannoz and Tenements in the same Writ above specified, with the appurtenances in form aforesaid &c. And whereupon they say that they were seised of the same Pannoz and Tenements, with the Appurtenances in the r Demeasne as of fee and right in the time of peace, in the time of the Lord the King, now taking thereof the profits, to the value &c. and into which &c. and thereof bringeth suit &c. And the same T. F. tenant, by his Warrant defendeth his right when &c. and saith that the same T. hath not disseised the same Plaintiff of the said Pannoz and tenements in the Writ aforesaid above specified with the appurtenances, as the same Plaintiff by his Writ and Declaration aforesaid above supposeth. And of this he putteth himself upon the Countrey, &c.

T. I. Eliz. Rot. 137. And the same Plaintiff prays license thereof to impart and have it, &c. And afterwards the same T. and R. came again here into Court that same Term in their proper persons, and the same T. F. although solemnly called, came not again; but in contempt of the Court departed, and made default: Therefore it is considered, that the same Plaintiff recover their selling against the same H. T. now tenant, J. R. the Son Jo. W. and Eliz. his Wife, and Jo. G. and Ka. his wife, of the same Pannoz and Tenements in the Writ aforesaid above specified, with the appurtenances; And that the same H. J. K. and Eliz. and Jo. and Ka. have of the Lands of the same T. F. to the value, &c. And the same Tho. in mercy, &c.

Judgment
against the
Tenant onely
in like case.

M. 12. H. 8. Rot. 637. Ebor. P. A. C. by W. R. his Attorney demandeth Jo. R. one Messuage, sixty acres of Land, twenty acres of Meadow, thirty acres of Pasture, with the appurtenances in H. as his right and inheritance; and into which the same I. hath no Entry, unless after the Demise, which N. C. to whom T. C. the Grandfather of the same Alex. whose Heir he is, the same demised for the life of the same H. N. thereof made to the same J. W. And which after the Demise by the same N. to the said Jo. W. thereof made in fee unto the same Alex. ought to revert by form of the Statute, in Consili Casu. And whereupon he saith, that the same T. C. the Grandfather, &c. was seised of the Tenements aforesaid, with the Appurtenances in his Demeasne, as of fee and right in the time of peace in the time of Edward late King of England the 6. after the Conquest, taking thereof the profits, to the value, &c. and which after the demise, &c. And thereof bringeth Suit, &c.

Entry in consili casu.

H. 12. H. 8. Rot. 335. Devon. ss. J. F. and Ma. his wife, Hen. C. and E. his wife, and N. T. by J. F. their Attorney, offered themselves the fourth day against O. G. and Alice his Wife, of a Plea of one Messuage, with the Appurtenances in great T. which the same I. F. and Ma. his Wife, H. and E. and N. in the Court of the King here, claim as their right against them, and the same Alice his Wife, by Writ of the Lord the King, de ingressu ad terminum qui prateriit, &c. And the same O. came not; and as well he as the same Alice made other defaults here, to wit, xv. na Pas last pass

Entry at a Term, which is past by two Sisters, and their husbands.

past afterwards, at other times here in Court they appeared: therefore the Sheriff was commanded that he take the Messuages aforesaid, with the appurtenances into the hands of the King &c. And that he summon by good Summoners the same O. and A. that they be in Oct. Mich. then next following, to hear thereof their Judgment &c. At which day the Sheriff did nothing therein, by which as before it was commanded the Sheriff that he take the Messuages aforesaid, with the Appurtenances, into the hands of the said Lord the King &c. And that he summon by good Summoners, the same O. and A. that they be here at this day to wit in Oct. Hill. then next following, to hear thereof their Judgment, &c. And the Sheriff now returned that he took &c. and that he summoned &c. Whereupon the same J. F. M. H. and C. and N. pray Seisin of the Mess. aforesaid, with the Appurtenances, by default &c. to them to be adjudged &c. And hereupon came here into the Court the same A. in her proper person and saith that the Messuage aforesaid is the right of the same Alice: Whereupon for that the same Alice came here into the Court before Judgment therein was given to answer the same J. F. and M. H. and C. and N. and defend her right, prayeth that the for the default of the same O. her Husband may not lose her right, but that she may be admitted to defend her right therein; and she is admitted, &c. And hereupon the same J. F. and M. H. and C. and N. demand the same A. the Messuage aforesaid, with the Appurtenances, as the right of the same M. Eliz. and N. And into which the same A. and Otho have no Entry, unless after the Demise which H. W. Parson of the Church of C. whose Heirs the same M. E. and N. are thereof made to the same H. and E. his noble Wife, and Margery their Daughter, ad terminum qui praterit &c. And that after the same Term, to the same I. F. and M. H. and E. and N. ought to revert &c. And whereupon they say, that the same H. W. was seised of the Messuage aforesaid, with the appurtenances, in his Demesne, as of fee and right in the time of peace, in the time of Ed. 3. d. after the Conquest, taking thereof the profits to the value, &c. And the same H. so being thereof seised, the Messuage aforesaid, with the appurtenances, demised to the said H. I. and E. his wife, and Margery their Daughter for a term, which is past, And from the same H. W. the right descendeth &c. to the same M. Eliz. and N. who now demand as of blood and heirs of the same H. to wit, to the same M. and E. as Daughters of Jo. Son of Jo. &c. And which after that time &c. And thereof bringeth Suit &c.

And the same Alice saith, that the same I. F. and M. H. and E. and N. their Action against the same Alice, and the same Otho ought not to have because she saith, that the same H. W. all did not demise the Messuage aforesaid with the appurtenances to the same Henry I. and E. and M. their daughter; as the same I. F. and M. H. and E. and N. by their Writ and Declaration aforesaid above supp. se. And of this she putteth her self upon the Countrey. And the same I. F. and M. H. and E. and N. likewise therefore twelveth &c.

Entry in disseisin in 'e, quibus, the Tenant confesseth the Action.
prim.

M 11. H. 8. Ror. 735. Westminster. I. S. Clerk, T. E. and I. C. by J. F. their Attorney demand against E. S. Knight, three Messuages, six acres of Land and one hundred acres of Pasture, with the appurtenances in R. and N. of which the same Ed. unjustly and without judgment disseised the same I. T. and I. after &c. And whereupon they say that they were seised of the Tenements aforesaid, with the Appurtenances in the Demesne, as of fee and right in the time of peace, in the time of the Lord the King, now taking thereof the profits, to the value &c. And in which &c. And thereof bringeth Suit &c. And the same Edw. by W. C. his Attorney cometh and defendeth his right, when &c. And saith that he

cannot gainsay the Action of the same I. T. and I. aforesaid, nor but that the Tenements aforesaid, with the Appurtenances, are the right of the same I. T. and I. nor but that he disseised the same I. T. and I. of the Tenements aforesaid, with the appurtenances, as the same I. T. and I. by their Writ and Declaration aforesaid above suppose. Therefore it is considered, that the same I. T. and I. recover their Seisin against the same E. of the Tenements aforesaid, with the appurtenances; and nothing of mercy of the same E. because he came the first day by Summons &c. Whereupon the same I. T. and I. freely here in Court do remit to the same E. whatsoever damages are to them to be adjudged, by occasion of the premises, &c.

H 12. H. 8. Rot. 130. De: on. ff. R. E. and Eliz. his wife, by W. R. their Att: ney, demand against W. D. one Messuage, with the Appurtenances in A. as the right and inheritance of the same E.; and into which the same W. hath no Entry, unless after the Demise which J. S. Cozen of the same E. whose Heir the same E. is made to the same R. F. for a term, which is past. And that after the same term, to the same R. and E. ought to revert. And whereupon they say that the same Jo. was seised of the Messuage aforesaid, with the appurtenances in his Demesne, as of Fee and right in the time of peace, in the time of Ed. 2. after the Conquest, taking thereof the profits, to the value &c. And the same Jo. being so thereof seised the Messuage aforesaid with the appurtenances demised, to the same R. F. for a term which is past: and from the same John descendeth the right &c. to one Jo. as Son and Heir &c. And from the same Jo. Son of John, descendeth the right to one Walter as Son and Heir &c. And from the same Walter descendeth the right &c. to the same Eliz. who now demandeth together &c. as Daughter and Heir &c. and which after that term &c. and thereof bringeth Suit &c.

Entry ad terminum qui præterit, the Tenant pleads a seisin by Deed.

Entry in le per.

And the same W. D. by T. H. his Att: ney, cometh and descendeth his right: when &c. and saith that actio non, because he saith that the same I. S. was seised of the Messuage aforesaid with the appurtenances in his Demesne, as of fee: and being so thereof seised after the same Demise, by the same R. F. of the Messuage aforesaid, with the appurtenances in form aforesaid made, by his certain Deed made, which the same W. D. with the Seal of the same I. S. sealed here in Court, bringeth, whose date is at S. upon Friday next after the Feast &c. Anno Regis E. 2. after the Conquest 10, gave, granted, and confirmed to the same R. F. the Messuage aforesaid, with the appurtenances, amongst other things, by the names of all is Mess. Lands and Tenements, with their appurtenances, which were of the same I. S. in A. together with the Common of Pasture for all Cattle, to the same Mess. Lands, and Tenements belonging to the land of A. and also Common of Estovers, in the Wood of L. unto the same mess. lands and tenements in S. belonging, to have, perceive, and hold all the same mess. lands and tenements, together with the same Common of Pasture, and together with Common of Estovers in the Wood aforesaid, with all and singular their appurtenances to the same R. F. his heirs and assigns for ever: and further the same I. S. by the same Deed bound himself and his heirs, to warrant to the same R. F. his heirs and assigns the same mess. lands and tenements, common of pasture and common of Estovers, with all and singular their appurtenances against all people for ever; as in the same Deed is more fully contained. By pretext of which gift, grant, and confirmation, the same I. now seised of the mess. aforesaid now demanded, with the appurtenances in his Demesne, as of fee the estate of which said R. F. in the same mess. with the appurtenances the same W. D. now hath, and the duty of purchasing of the original Writ of the same R. and E. and always afterwards had in the same: and this he is ready to verify: whereupon he prayeth judgment, if the same R. E. and E. against the Deed of the same I. S. ancestor of the same E. whose heir he is continuing in it self the Warranty of the same Jo. against him, ought to have, &c.

Whh

And

And the same R. E. and E. say that they by any thing before alleged, ought not to be barred, &c. because they say, that the said I. S. was seised of the Mess. aforesaid, with the Appurtenances. And being so seised th' reof, demised the same Mess. with the Appurtenances to the same R. E. for a terme which is past. And which after the same terme, unto the same R. E. and E. ought to revert, as the same R. E. and E. by their Writ and Declaration aforesaid above suppose without this, that any thing of the Mess. aforesaid, now demaunders with the Appurtenances into the possession of the same R. E. by the said deed or passed. And this they are ready to verify; where upon they pray Judgement and Seisin of the Mess. aforesaid, with the Appurtenances to them to be adjudged &c.

And the said W. D. as before said that the Mess. aforesaid, with the Appurtenances into the possession of the same R. E. by the deed aforesaid passed. And of this he putteth himself upon the Country. And the said R. E. and E. likewise, therefore rij. &c.

Entry in le
per.

Prin.

M. 15. H. 8. Rot. 531. Salop. H. T. A. and I. his Wife, by R. B. their Attorney demand against P. B. one Mess. and two Acres of Land with the Appurtenances in A. as their Right and Inheritance. And into which the same P. hath no entry, unless by Humphry B. the Father of the same P. whose Heir he is. And who demised the same to him, who him thereof unjustly and without judgement disseised the same T. and lo. after &c. And whereupon they say, they were seised of the Tenements aforesaid with the Appurtenances in their Demesne, as of fee and right, in the time of peace, in the time of the Lord the King, now taking thereof the profits to the value &c. And into which, &c. And thereof being Suit &c.

And the same P. by I. B. his Attorney cometh and defendeth the force and wrong when &c. And saith, that the said H. did not disseise the same T. and J. of the Tenements aforesaid, with the Appurtenances as the same T. and J. by their Writ and Declaration aforesaid above suppose. And of this he putteth himself upon the Country, &c. And the same T. and J. likewise therefore rij. &c.

Entry in le qui-
bus brought
by two Heirs of
the Disseisor
of the Father,
by the Custom
of the Honor
of Richmond,
for that the
Lands are par-
tible amongst
the Heires
males.

P. 15. H. 8. Rot. 134. Lincoln. H. J. P. and B. B. by A. J. their Attorney demand against T. R. Esq. 2. Acres of Land, with the Appurtenances in quibus, as their Right and Inheritance. And of which the same Tho. unjustly and without judgement disseised. Tho. B. late of T. the Father of the same lo. and B. whose Heirs they are after &c. And whereupon they say, that the same T. B. the Father &c. was seised of the same two Acres of Land, with the Appurtenances in his Demesne, as of fee and right in the time of peace, in the time of the Lord the King, now taking thereof the profits to the value &c. And from the same T. the Father, for that the same two Acres of Land with the Appurtenances, are held of the Lord the King, as of his Honour of Richmond, in Socage. And all Lands and Tenements in the County aforesaid, which are held of the same Honor and Socage are, and from the time whereof the memory is extant, were partible, and parted between the Heires males descended the right, &c. to the same lo. and B. who rownd manders Heirs and Heirs, &c. And in which, &c. And thereof being Suit &c.

And the said T. by R. T. his Attorney cometh and defendeth his right, when, &c. And saith, that the same lo. and B. their Action aforesaid as Heirs of the same T. B. ought not to be, because he saith, that the same lo. and B. are B. Berds, and were born at Dartmouth in the County of Devon, in the Diocese of Exon. And thus he is ready to verify: whereupon, he prayeth Judgement of the same lo. and B. their Action aforesaid, as Heirs of the same T. B. ought to have, &c.

And

And the same Jo. and B. say that they by the objection aforesaid from having their action aforesaid, ought not to be repelled, because they say that they are legitimate, and no Bastards, as the same T.R. hath against them objected: and this they are ready to verifie by ways and means which are convenient: and as the Court of the King here shall consider: and this they pray may be enquired of by the Country; and the same T.R. likewise; and because the cognizance of this cause belongeth to the Ecclesiastical Court, publike Proclamation &c.

H^{20. H. 8. Ror. 551. A.} in a Writ of Entry in le post, the Tenant bondeth Chapman, who enters into Warranty: And the same T.C. tenant by his Warranty defendeth his right when &c. And prayeth license therein to impart: and hath it &c. And afterwards that same term, as well the same Demandant came again here into Court by his Attorney aforesaid: as the same T.C. Tenant by his Warranty in his own person: whereupon for certain causes the Court here specially moving, day is there of given by the Court here to the same T.C. Tenant by his Warranty here untill in eight days of Saint Hillary, of hearing their Judgment therein the same day is given to the same Demandment here &c. every ones right referred &c.

Ejectio Custodie.

Cornub. A. J. S. late of London, Gent. was summoned to answer J. C. Esquire, of a Plea: wherefore the custody of the Land and Heir of J. R. Esq. unto the full and lawful age of the same Heir, belongeth to the same J. for that the same Jo. R. holdeth his Land of him by Knights service: and the same Plaintiff hath a long time been in full and peaceable Seisin of the same, the same Defendant, the same Heir being within age, out of the custody of the same Plaintiff ejected &c. And whereupon the same Plaintiff by his Attorney saith, that whereas the custody of three Messuages, and one hundred acres of Land, with the appurtenances in T. and B. and of Jo. K. S. n and Heir of J. R. unto the full and lawfull age of the same Heir, belongeth to the same Plaintiff for that the same T. R. the Father holds the tenements aforesaid, with the appurtenances, of him by Knights service; to wit, by Homage Fealty, and Escuage of the Lord the King of 40 s. when it shall happen 2 s. and to more, more &c. and to 1 s. less it, and by the rent of 2 s. every year at the Feasts &c. to be paid: and also by the service of doing suit to the Court of the said Plaintiff at his Mannor aforesaid from three weeks, in three weeks, at the same Mannor yearly to be held: of which services the same Plaintiff was seised by the hands of the said J. R. as by the hands of the true tenant, to wit of the Homage, Fealty and Suit of Court aforesaid as in &c. and right, and of the Escuage and Rent aforesaid in his Demesne as of fee. And the same J. R. the Father died in the Homage of the said Plaintiff. And the same Plaintiff in full and peaceable possession and Seisin of the tenements aforesaid and Heir aforesaid: to wit, from the 12. day of June, An. 23. H. 7. until the 20. day of June then next following was: which day the same Defendant the same Heir being within age out of the custody of the same Plaintiff violently ejected: whereupon he saith that he is the worse, and hath damage to the value of 100 l. And thereupon bringeth Suit &c.

False Imprisonment.

Count, in
false impri-
sonment, upon
an attachment
of privilege
for an Attor-
ney.

P.4. Ja. Rot.
556.

MIch. 6. Ja. Rol. 3215. s. Brownlow. Elsewhere as it appeareth in E. 6. Ja. Rol. 6011. it is contained thus: London s. H. C. and C. M. were attached by a Writ of the Lord the King of Privilege forth of the Court here issuing, to answer G. L. one of the Attorneys ac. ac. according to the Liberties and Privileges ac. in a Plea of Trespass, Assault, and Imprisonment, &c. And whereupon the same G. in his proper person complaineth, that the same H. and C. the 20. day of April, An. 6. with force and arms (to wit) Swords Staves, and Knives, upon the said G. at London, in the Parish of St. Dunstons in the West, in the Ward of Farringdon without, made an assault, and him beat, wounded, imprisoned, and evilly intreated, and other enorm. to him did to the great damage of the said G. and against the peace of the Lord the King now: Whereupon he saith that he is the worse and hath damage to the value of 100 l. And hereupon he bringeth Suit, &c. Pledges to prosecute Jo. D. R. Roo. and the same H. and C. by W. D. their Attorney, come &c. and it is continued until Munday next after 8. Mich. at which day here cometh as well the same G. in his proper person as the same H. and C. by their said Attorney: and hereupon the same G. prayeth, that the same H. and C. may answer to his said Declaration, &c.

And the same H. and C. as before, defend the force and wrong when &c. and as to the coming with force and arms, and also the whole trespass aforesaid; besides the said assault and the taking and imprisoning, and in prison detaining of the said G. by the space of ten hours, above supposed to be done, say that they are in no wise guilty thereof: and of this they put themselves upon the Countrey: and the same G. thereof likewise: and as to the said assault, and taking and imprisoning, and in prison detaining of the said G. by the space of ten hours, above supposed to be done, the same H. and C. say, that the said G. his action aforesaid against them ought not to have; and because they say that the same H. the same 20. day of April, Anno 6. above said, and the same time wherein the same Trespass is supposed to be done, and long before, and afterwards was a Constable of the said Lord the King, now of, and in the Ward of Cornhill, London; and that the same C. the same 20. day of April, Anno 6. above said, and the same time in which &c. and long before and afterwards was one of the Beadles of, and in the same Ward; and that the same G. the same 20. day of April, Anno 6. above said; to wit, about the 12. hour of the night of the same day in a certain street called Cornhill, in the Parish of St. M. in C. in the Ward of C. aforesaid, did unreasonably wander; and the same H. being then Constable, as is premised; and the same C. Beadle, as is aforesaid, being there: and being then and there in their Watch: and seeing the same G. then and there wandering in the street aforesaid. the same H. then and there asked the same G. from whence the same G. then came; and whither and about what business he was going about in the night, unto whom the same G. then and there to give any answer to the same H. pertinaciously refused: Whereupon the same H. then being one of the Constables of, and in the same Ward of C. as is premised: and the same C. one of the Beadles of, and in the same Ward,

as is before said also being by the command of the said H. and in his aid for the better preservation of peace of the said Lord the King. within the City aforesaid gently laid his hands upon the same C. and him, as a Right-walker then and there took: And to the prison of the said Lord the King now in the Compter, situate in the P. London, situate in the Parish of Saint M. in the Ward of C. then brought there safely to be kept, until the morning of the next day then following: and the same G. in the prison aforesaid then imprisoned; and there in prison for the cause aforesaid, until the morning of the next day; to wit by the same space of ten hours detained: as to them it was lawful; which said questioning of the said G. by the same H. and laying of the hands of the said H. and C. upon the same G. and the taking of the same G. and carrying him to prison, and in prison detaining for the cause aforesaid, in form aforesaid made, are the same assault, taking and imprisoning, and detaining in prison, as the same G. above, himself thereof complaineth; without this that the same H. and C. are guilty of the said assault, and taking and imprisoning and in prison detaining of the same G. at the said Parish of S. Dunstons in the East, or elsewhere, then in the same Parish of St. M. in C. in the Ward of C. as the same G. above against them complaineth. And this they are ready to verifie; whereupon they pray Judgment if the same G. his said Action &c. issue upon their own wrong without such cause.

Tho. Harris.

M^{17.} Jac. Rot. 928. è Brownlow Northampr. ff. I. M. and D. his wife, were attached to answer F. L. of a Plea; wherefore the same D. with force and arms &c. upon the same F. at E. made an assault. and declares upon a Battery done 30. May, 16. Jac. the Defendants come, and defend &c. and as to come with force and arms not guilty; and as to the residue of the Trespass and Assault aforesaid, above supposed to be done, Actio non, because he saith that the same Plaintiff the day and year above said, upon the same D. at E. made an Assault; and thereunto pleads Son assault demeine, and issue thereupon. Note that the Husband pleads nothing for himself: It seems to be, because it was the Battery of his Wife.

T^{17.} Jac. Rot. 1808. è Waller, Elsewhere, as it appeareth in Easter Term, 16. Jac. Rot. 1169. It is thus contained: Be it remembered, &c. Midd. ss. H. L. by I. T. his Attorney, complaineth of T. H. Gentleman, one of the Attorneys &c. for Battery and False Imprisonment, by the space of one day done at Westminster, the 25. Day of December, 15. Jac. and it is continued by imperlame, until Friday after Crin. Trin. 17. Jac. At which day here cometh as well the said H. by his Attorney aforesaid; as the same T. in his proper person: And hereupon the same H. prayeth that the same T. may answer to his Bill &c. And the same T. as before defendeth the force and injury &c. And as to the coming with force and arms, and also the beating, wounding, and evil handling of the same H. aforesaid, above supposed to be done, the same T. saith, that he is in no wise thereof guilty. And of this he putteth himself upon the Countrey; and the same H. likewise.

And as to the Assault and Imprisonment aforesaid above, supposed to be done, the same T. saith, that the said H. Actio non, because he saith that before the time wherein the same Trespass and Imprisonment is supposed to be done, the same T. else-where, to wit. in Trinity Terme, Anno, &c. xii. by the name of T. H. Gent. one of the Attorneys of the said Lord the King, of his Bench at Westminster. aforesaid, in the said County of Middlesex, in the same Court of the said Lord the King, here by the Judgement of the same Court, recovered against the same H. by the name of H. L. late of &c. otherwise called, &c. as well a certain debt of 28 l. as 40 s. which to the same T. in the same Court of the King here, were adjudged for his damages, which he had by occasion of detaining of the said debt, whereof he is convicted, as by the Record and proceedings thereof, in the same Court of the King, here remaining, it manifestly appeareth upon which said Judgement by the same T. against the same H. in form aforesaid, hath the same T. for the speedier obtaining of his said debt and damages, by him in form aforesaid recovered afterwards, to wit. the 28 day of November, Anno R. &c. 15. prosecuted out of the same Court of the said Lord the King of the Bench aforesaid, a certain Writ of the said Lord the King, to take the said H. to satisfy the same T. of the debt and damages aforesaid, to the then Sheriff of C. directed, by which said Writ, the said Lord the King to the then Sheriff of C. commanded that he should take the said H. if &c. And save &c. so that he should have his body here, to wit, at Westminster aforesaid, in Cro. Pur. be M. then next following, to satisfy the same T. of the debt and damages aforesaid, whereof he is convicted, which said Writ afterwards, and before the return of the same, to wit, the 20th day of Decemb. Anno 15. aforesaid, to one F. V. Esquire, then Sheriff of the same County, of C. being at L. in the same County of C. was delivered in form of Law, to be executed. By vertue of which said Writ, the same F. V. then being Sheriff of the same County of C. afterwards, to wit, the 25. day of Decemb. in the Declaration aforesaid, above specified, the same H. at L. aforesaid, took and arrested, and him then and there in his Custody, had and detained in execution, for the debt and damages aforesaid. And the same T. further saith, that the said H. so being in the Custody of the said then Sheriff of C. in Execution for the debt & damages in form as aforesaid, himself out of the custody of the said then Sheriff of C. then and there to rescue, did greatly endeavour; whereupon, the same T. being then and there present, by the Command of the said F. V. then being Sheriff of the said County of C. the same H. to the Goal of the said Lord the King, at L. aforesaid, in ayd of the same Sheriff, together with the same Sheriff, then and there caused to be conducted: which said ayd of the same T. of the said F. V. then being Sheriff of the same County of C. by the then Command of the said then Sheriff, and conducting of the same H. unto the said Goal of the L. aforesaid, in form as aforesaid, and for the cause aforesaid, are the same trespass and imprisonment, whereof the same H. above, himself now complaineth without this, that the same T. is guilty of the assault and imprisonment aforesaid, at the same City of Westminster. &c. else-where out of the same County of C. &c. in any other manner. As the said H. doth above against him complain. And this he is ready to verify: whereupon he prayeth Judgement, if Acten, &c. This Plea is a certain Plea.

T. 5. J. Rot. III. s. Brownlow, between B. one of the Attorneys, &c. And L. D. in a Plea of Trespass, Assault, and Imprisonment, upon an Attachment of Privilege. And whereupon the same B. in his proper person complaineth, that whereas in the Statute of Magna Charta, Cap. 24. &c. it is more fully contained. And whereas the same B. is a Freeman of this Realm of England. And from the time of his Nativity hitherto was.

And

And according to the Law and free Custom of England, and the Statute P. 4. J. Rot. 556.
aforesaid, that a Freeman of this Realm of England, ought to use the Liberties and free Customs of this Realm of England, the same J. L. not being ignorant of the Premises, not regarding the same Statute, but endeavouring the same B. to disinherit of the Liberties and free Customs aforesaid, against the form of the Statute aforesaid, the 4th day of May, Anno 7. Jacobi; together with G. B. with force and Arms, to wit, Swords, Staves, and Knives, upon him the said B. at London, in the Parish of St. Mary Bow, in the Ward of Cheap, made an Assault, and him, then and there, and in Cippis, imprisoned, and him the said B. in Cippis, there by the space of two hours, without any reasonable cause, against the Law and Custom of this Realm of England, and against the form of the Statute, and against the peace of the Lord the King, now detained, by which occasion, the same B. against the form of the Statute aforesaid, and the Law of the Land of this Realm of England, is very much disquieted and depressed, and of his Liberties and free Customs disinherited against the form of the Statute aforesaid; whereupon he saith, that he is the worse and hath damage, to the value of 500 l. And thereof he bringeth Suit. &c. Pledges to prosecute J. D. R. R. the Defendant pleads not guilty, verdict, for the Plaintiff, and Judgement for the Plaintiffs damages, in the whole to a 100 l.

T. 17. Jac. Rot. 3271. s. Brownlow, Lincoln, ff. J. G. and B. his Wife. &c. K. S. wherefore with force and Arms upon the same B. such a day and year at S. made an assault, and her did beat, wound, and evilly handle, and her eyes pulled out, so that of her life S. she despaired. And other, &c.

erret.

T. 17. Ja. Rot. 699. Brownlow London, &c. R. S. late, &c. C. q. re. J. V. And whereupon the same J. by J. L. his Attorney complaineth that the same R. together with, &c. the 29. day of Septemb. Anno Ja. Regi. 15. with force and Arms, to wit, Swords, Staves, and Knives upon one J. A. Servant of the same Ja. at London, in the Parish of St. Mary Bow, &c. made an assault and him did beat, wound, imprison and evilly handle, and him then and there in prison, until the same Ja. a fine of 14 s. 10 d. to have the delivery of his said Servant, with the same R. and W. (which doth not appear) had made, detained, whereby the same Ja. the Service of his Servant aforesaid, by a great time, to wit by the space of two Months, then next following lost. And other enormities, &c. to the great damage, &c.

E. 19. Ja. Rot. 2021. Bro. London ff. B. B. Esq; by R. M. his Attorney complaineth against A. H. Gent. Warden of the Prison of the Lord the King, of the Fleet present here in Court. in his proper person; for that whereas the same A. the 10th day of Novemb. Anno. &c. 18. with force and Arms, to wit, Swords, Staves, and Knives upon one E. the Servant of the same E. at London, &c. made an Assault and him did beat, wound, imprison, and evilly handle. And him so in Prison against the Law, and Custom of the Realm, of the Lord the King of England, a long time that is to say, by the space of 8. dayes, then next following detained, whereby the same E. the Service of his Servant aforesaid, by a long time, to wit, from the 10. day of Novemb. Anno 18. aforesaid, until the 18th day of Novemb. then next following lost. And other enormities, &c. to the value of 200 l. And thereupon he prayeth remedy, &c. Defend. pleads not guilty, Verdict and Judgement for the Plaintiff, Damages in the whole, to 8 l.

Court. by the Master, for the false Imprisonment of his Servant.

See the Book of Entries, Tiele faux Imprisonment. 2. fol. 342.

False Judgment.

False judgment.

M. 20. Ja. Rot.
660.

T. 2. Ja. Rot.
2701. Attachment awarded.

P. 11. Ja. Rot.
2251. 627.

Distring. the Suitors summoned &c. came not: Therefore for their default it is considered, that it be proceeded to examine the Record, and to reform and correct the false judgment, if &c. And hereupon the said T. saith, that the Record is vicious in this, that the Judgment in the same Court is given, that the said T. should be in mercy, where the Judgment ought to be given by the same Court that the said T. should be taken, for that he denied his own Writing, &c.

And now here at this day came as well the same S. by R. H. his Attorney, as the said W. summoned &c. by I. W. his Attorney: And the Sheriff, to wit, P. B. Knight, now returneth, that the same S. had found to the same Sheriff Pledges to prosecute his said Writ; to wit, I. D. R. R. And that he by vertue of that Writ to him directed, at his County held at the Castle of York, in the County aforesaid, such a day and year, made the same Plaint to be recorded, which was in the same County between the same S. and W. and the Record of the same Plaint before the Justices here at this day, under his Seal, and the Seals of T. P. and four lawfull Knights of the same County hath ready of those who were present at the Record: And that he summoned the same W. that he should be here at this day to hear the Record by R. S. and F. W. as by the same Writ to him it was commanded &c. which said Record followeth in these words:

T. 10. Ia. Rot.
914, 913.

T. 11. Ia. Rot.
1909.

Mich. 6. Ia.
Rot. 1930.

M. 9. and 10.
Elix. Rot.
1419.

A Writ of Error, directed to the Major and Citizens of Cant. return before the Justices of the Common Bench, the Record is certified, and a Sci. fac. awarded against the Defendant, to hear the reasons.

Leige people to induce, certain false and scandalous words of the same W. at C. E. in the presence of many of our Leige people, said published and pronounced in these English words following, to wit,

W. B.

W. B. (the same W. meaning) and F. B. (one F. B. Son of the same W. meaning) have stolen my horses; By speaking, publishing, and pronouncing of which same words, the same W. not onely in his good name and fame is hurt, but also in his doings and businesses with honest persons, with whom the same W. in buying, selling, and lawful bargaining before used is much prejudiced, and made worse, to the no little damage and losse of the same W.

M. 19. la. Ror.
558. in the
Kings Bench
N. against P.
A Writ of

Error brought upon a Judgment in the Common Bench, given against Executors, the Judgment is reversed, and Judgment that the Plaint. shall be restored &c. And have execution, *De bonis executoris pro priis.*

And therefore we command you, that you hear the said Plaint, and afterwards cause the same to be withdrawn; that we hear no more clamour thereof for defect of Justice.

Witness Our Self; 1. Ja. 1. 36.

Castle of York.

ff. Pleas held in the Court at the Castle of Y O R K, at the C. of Y. in the County of Y. upon Munday, the first Day of Aug. An. 1. and 36, An. Dom. 1630.

At this Court W. B. complaineth of S. C. in a plea of Trespasse upon the Case, W. B. by J. W. his Attorney complaineth of S. in a Plea of Trespasse upon the Case; for that, to wit, that whereas the same W. B. is a free, good, true and faithful Leigman of the Lord the King now, and as a free, good, true, and faithful Leigman of the same Lord the King, from the time of his nativity hitherto, hath carried and behaved himself, and of good name fame, gesture, and condition, honestly with god and grave men, as well his neighbours as other faithfull Subjects of the said Lord the King, was had, noted called, and reputed without any falshood, theft, perjury, felony, deceit or stain of any other fault, or hurtful crime unspotted and untouched by the whole time aforesaid, carried and governed himself notwithstanding the same S. C. not ignorant of the premises out of his mere and wicked malice pre-conceived, endeavouring the name and fame of the same W. B. to hurt, detract, make worse, darken, and utterly to destroy; and also into perturbation, variation and infamy, to lead and induce certain false, and scandalous words and lyes of the same W. the 22. Day of D. Anno Eliz. 45. at C. E. and within the Liberty and Jurisdiction of this Court, in the presence and hearing of many Leige People of the said Lord the King, said, repeated, and spread abroad in these English words following: to wit,

W. B. (meaning the same W.) hath stolen my horses out of my Close, which I will prove:

By pretext of speaking and spreading abroad of which said false and scandalous words, the same W. B. not onely in his good name and fame is hurt, but also in performance of his business with honest persons, with whom the same W. B. in buying, selling, and lawful bargaining, is much hindered and damaged; and also some Leige People of the said Lord the King, for that occasion withdraw themselves from the company of the same W. B.

kkk

and

P. 42. Eliz.
Rot. 101. false
Judgement in
Assize quere.

H. 45. Eliz.
Rot. 1914.
H. 3. J. Rot.
319.
M. 10. J. Rot.
1612.
M. 10. I. Rot.
1904. 1903.
P. 1. M. Rot.
639. Non-suit
in false judg-
ment.

and to converse with him, or any wayes to intermeddle, refused, and yet do refuse; whereupon, &c. damages to 39 l. And thereof he bringeth Suit, &c. And the same S. C. by F. K. his Attorney comineth, &c. And saith Actio non, because he saith, that he is not guilty of the speaking, and spreading abroad of the words in the Declaration aforesaid specified, nor of any part of them, in mannor and form, as the said W. above against him complaineth. And this, &c. Therefore according to the Custom, it is commanded to the Bayliff of the Wapentake, that, &c. that he cause to come before the Steward of the same Court, at the next Court of the County aforesaid, such a day xij. &c. And that he then have there the same precept; together, with the Pannel of the names of the Jurors aforesaid the same day, &c. At which County Court, held at the C. of E. aforesaid, according to the Custom before the Steward there, upon Monday the 12th day of May, came as well the same W. B. by his Attorney aforesaid, as the same S. by his Attorney aforesaid, &c. And the same Bayliff of the Wapentake aforesaid, turned the Precept to him, directed in all things, serbed together with a Pannel of the names of the Jurors. Annexed to the Precept, to wit, in the same Pannel are named T. S. O. R. &c. to make a Jury between the parties aforesaid, in the Plea aforesaid, who to speak the truth of the Premises, being elected, tryed and sworn, say upon their Oath, that the said S. C. is guilty of the speaking and spreading abroad of the said words, in the said Declaration specified. And they assessed the dam. of the said W. by occasion of the speaking of the same words, besides his costs and expences by him, about his Suit, in this behalf laid out to 66 s. viij d. And for those costs and expences to vi d. Therefore at the same Court, it was considered by the same Court, that the said W. S. should recover against the said S. his said damages, by the Jury aforesaid, in form aforesaid assessed. And also 3 l. 8 s. for his costs and expences, which said damages in the whole, do amount unto 4 l. 18 s. 4 d.

In witness whereof, the Seal of the Steward of the Court aforesaid is put, Dated at the C. of York, the 7th day of May, An. Ja. Dei, &c. 2. and S. 37. Anno Dom. 1604.

M. 20. Jac.
Rot. 660. in
this, that by
the Record it
appeareth, that
the debt aforesaid,
against the said T. in the said hundred Court, in form aforesaid demanded and recorded, exceedeth the sum of 40 s. in which case, by the Law of the Land, it belongeth not to the said Hundred Court, to hold plea of above 40 s.

And hereupon the same W. prayeth, that the same S. may shew to the Court here, and assign the defects, wherein false Judgement is made in the said Platint, if any be done to him: whereupon the same S. saith, that the same Record is vitious, and much defective, to wit, in this that it doth not appear by the Record, before whom the first Court was held, And in this, that the said W. by his Declaration, did complain himself to be damaged and made worse, to the value of 39 l. whereas by the Law of the Land, that Court cannot hold pleas of 40 s.

In this also, that the same Court held the 12th of May, was held before the Steward, whereas it ought to be held before the Justices of the same Court, and the Sheriff of the same County for the time being, so that the same judgement was given Coram non iudice. Also in this, that by the same Record it appeareth, that the same W. appeared by J. W. his Attorney. And that the same S. appeared by F. K. his Attorney: but in the Record, is not mentioned any Warrant of Attorney for the same W. or for the

the same S. in the said plaint. And so the same S. saith, that others manner of wayes in the Court of the said Lord the King, of his County aforesaid, false Judgement is made to him in the said plaint. And hereupon prayeth, that the said Judgement for the said defects and others being in the same Record, as false and erroneous may be annulled, and altogether taken for nothing. And that the same S. to the said 4 l. 18 s. 4 d. which the said S. by vertue of the same Judgement, for his damages, by occasion of the premises recovered against him, and unto all things, which he by occasion of the same Judgement lost, may be restored, &c.

And the same W. saith, that in the Record aforesaid, there is no error, nor to the same S. in the same County Court held at the Castle of E. aforesaid, false Judgement is made in the same Plaint. And prayeth, that the Justices here proceed to the examination of the same Record, and to reform and correct the false Judgement, if any be found therein, proved, or can be made appear. And because the Justices here, will advise themselves of, and upon the premises, before they further proceed therein, day is given, &c. in Cro. Trin. to hear thereof, what the Court hereof, and upon the Premises shall consider, because the Justices here thereof not as yet, &c. At which day here came as well the said S. as the said W. by their Attorneys aforesaid. And because the Justices here further will advise themselves of, and upon the Premises aforesaid, before they proceed further therein, further day is given, &c. in Oct. Mich. to hear thereof, what the Court hereof, and upon the Premises aforesaid, shall consider, for that the Justices here thereof not as yet, &c. The Judgement was reversed, And Writ of Restitution awarded.

H. 38. Eliz. Rot. 816. In a Writ of false Judgement brought by the Defendant, upon a Judgement given in ancient Demesne, upon a Writ de droit Close. prosecuted in the nature of an Assize, Nour Disfine, the Defendant in the Writ of false Judgement, saith, that the Record of the Plaint, which was in the Court of the said O. is other wise then the Record of the said Plaint, by vertue of the Writ of the said Lady the Queen, into the Court of the said Lady the Queen, here sent and certified. And this, &c. Judgement here, whether to examine any false Judgement in any such Plaint, ought, or will proceed, &c. between V. of Grayes Inne, and V. of Wroxtou.

T. 16. Ja. Rot. 1915. A. against E. false Judgement, the Declaration in the County Court, in a Plea of Trespas against the peace. And not guilty pleaded. And the Jury say, (that it was not upon their Oath) that the Defendant is guilty, so that it doth not appear, that the Jury was sworn, And for this and other exceptions, Judgement is reversed.

False Judgement.

Error.

M. 16. Ja. Rot. 2274. A. against E. false Judgement in a Plea of Trespas in the hundred Court, wherefore with force and Arms, And against the peace, &c. the Defendant pleads his free hold, And Judgement that the Defendant be in mercy.

False Judgement.

Error.

T. 41. Eliz. Rot. 3161. s. Bro. Leic. ff. It was commanded, the Sheriff if P. W. and J. C. should secure the same Sheriff, of prosecuting their complaint then in his full County, he should make to be recorded the plaint which was in the same Court without Writ of the said Lady the Queen, between T. P. and the same P. and I. of the Cattle of the same T. taken and unjustly detained &c. And whereupon the same P. and I. complained false Judgement to be made to them in the same Court, And that he should have that Record here at this day, to wit, in Cro. Trin. under his Seal. And the Sheriff of 4. lawful Knights, who should be present at the Record. And that he summon, by good Summoners, the said T. that he should be here at this day, to hear the Record, &c.

And

H. 3. Jac. Rot.
319. the like
T. 3. Jac. Rot.
507. H. 5. Jac.
Rot. 1307. M.
against P.
H. 4. Eliz. rot.
2342 Judg-
ment rever-
sed.
M. 9. and 10.
Eliz. Rot.
2078. Judg-
ment rever-
sed.

And now here at this day came as well the same P. and J. and R. L. by their Attorney as the same T. by R. P. his Attorney: And the Sheriff to wit, W. D. Esquire, now returneth that the same P. and J. had found to the same Sheriff Pledges to prosecute their said Writ; to wit, J. D. R. R. and that he summoned the same T. to be here at this day, by J. C. and H. P. honest &c.

The Sheriff also returneth, that he by virtue of the same Writ to him directed, in his full County holden at the Castle of Leic. in the County aforesaid, the tenth day of May last past, caused the said Plaint to be recorded; and hath the Record here at this day under his Seal, and the Seals of W. R. T. O. J. P. and N. A. honest and lawful Knights of the same County, of those who were present at that Record, as by the same Writ it was commanded him; the tenour of which Record followeth in these words:

ff.

BE it remembered, that the 19. day of Decemb. An. Eliz. Dei gratia, &c. 41. before me W. D. Esquire, Sheriff of the County aforesaid, at the C. of L. in the same County of L. came the same T. P. by T. D. his Attorney, and complained against P. W. and J. C. of a Plea; wherefore they took the Cattle of the same J. P. and them unjustly detained against Sureties and Pledges, until &c. And found to the said T. P. Pledges to prosecute his complaint aforesaid; and also for the returning of the Cattle, if the returning of them be adjudged by Law; to wit, J. D. and R. R. And then and there demanded due process in Law against P. W. and J. C. thereof to be made &c. Wherefore according to the Custome in the County aforesaid, from the time whereof, the memory of man is not to the contrary used and approved on the behalf of the said Lady the Queen now, It was commanded to W. H. Bayliff of the Hundred of G. and one of the Ministers of the said Sheriff of the County aforesaid, that according to the Custome he put by Sureties and safe Pledges the same P. W. and J. C. that they should be before me the said Sheriff, at the next Court of the County aforesaid; to wit, at the aforesaid C. L. 21. day of Decemb. An. 41. above said then next following to be held to answer the said T. P. in the Plea aforesaid: And the same day was given to the said T. P. then, against the same P. and J. C. to prosecute the same Plea. At which day here, to wit, at my next Court at the said C. L. then held, came the said T. P. by his Attorney aforesaid, the same 21. Decemb. And the same W. H. Bayliff of the Hundred aforesaid, returned the Precept aforesaid to him, in form aforesaid directed, in all things served and executed; to wit, that he by virtue of the same Precept attached the same P. and J. C. by Pledges; to wit, Jo. Den, and R. F. to be here at this day; to wit, the same 21. day of Decemb. in form aforesaid, as by the said Precept to him it was commanded.

And the same P. and J. C. in full Court there being called, came not, but made default: whereupon the same J. P. by his Attorney aforesaid, prayeth processe further therein to be made upon the said complaint against the same P. and J. and hath it &c.

Wherefore according to the Custome of the County Court aforesaid, it was commanded to the same W. H. Bayliff of the Hundred of G. and one of the Ministers of the County Court aforesaid, that according to the Custome of that Court, he distrain the same P. and J. by all their Goods and Chattels in his Baylywick: So that neither &c. until &c. And that they should be before me the said Sheriff at the next County Court, to be held at the said C. of L. to wit, the 18. day of Jan. An. xli. above said, then next following, to answer

Distrain a-
warded.

answer the same T.P. in the same Plea. The same day is given to the same T.P. here, &c. At which said next County Court aforesaid here; to wit at the said Castle of Leic. the same 18. day of Jan. An. abovesaid then held, came as well the same T.P. by T.D. his Attorney aforesaid, as the said P. and J. by T. and C. their Attorney. And the P. and J. offered themselves against the said P. in the same Plea. And the same T. thereupon complained; and declared against the said P. and J. C. of a Plea: wherefore the same P. and J. C. the 15. day of Jan. An. &c. 41. at S. within the Jurisdiction of this Court, in a certain place called the Hall-croft, took the Cattle, to wit, six Calves of the same T. and them unjustly detained against Sureties, and Pledges, until &c.

Whereupon he then said, that he was the worse, and had damage, to the value of 39 l. and thereupon brought his Suit, &c.

And hereupon the same T. P. then and there put in his place the same T. D. his Att. ney, against the same P. and J. C. to gain or lose in the same Plea: (Here must be likewise a Warrant of Attorney for the Defendants:) And thereupon the same P. and J. C. by T.C. their Attorney aforesaid, then in the same Court demanded a Copy of the Declaration aforesaid; and Assigns thereof to impart here, until the next County Court before the said Sheriff, to wit the 15. day of Feb. An. xij. abovesaid, then next following, to be held at the C. of L. and then to answer &c. And it is granted to them &c. The same day is given to the same T.P. here &c. At which said next County Court, before the said Sheriff of the County aforesaid here; to wit, at the C. of L. aforesaid the 15. day of Feb. Anno abovesaid came as well the said T. P. as the said P. and J. C. by their said Attorneys. And it is said to the said Attorney of the said P. and J. C. by the Court here, that he answer for the same P. and J. C. his Clients, to the same T.P. in the said Plea: And the said Attorney, for his said Clients, saith nothing in Bar, as in others; by which the said T.P. his damages against the same P. W. and J. C. by occasion of the taking, and unjust detaining of his Cattle aforesaid, ought to recover; but because it is unknown to the Court here what damages the said T.P. sustained by occasion of the premises; It is commanded to the said W. H. then Bapiff of the Hundred of C. aforesaid, and one of the Ministers of the County Court aforesaid, that he cause to come before the said Sheriff at the next County Court of the County aforesaid; to wit, the 15. day of March, An. xij. abovesaid, at the C. of L. aforesaid, then next following to be held, twelve honest and lawful men of the Neighborhood of S. to be suspected by neither party, to inquire upon their Oath what Damages the said T. P. sustained, as well by the occasion of the taking, and unjust detaining of the Cattle aforesaid as for his costs and charges by him about his Suit in this behalf said out: and the same day was given to the said T.P. here &c.

At which said next County Court, the same 15. day of March, Anno 41. abovesaid, before the same Sheriff of the County aforesaid held, came the said T.P. by his Attorney aforesaid: And the same W. H. Bapiff of the Hundred aforesaid sent not his Precept thereof: Wherefore, as before, it is commanded to the same W. H. Bapiff &c. that he cause to come here at the next County Court, before the same Sheriff of the County aforesaid, to wit, the 12. day of April, Anno 41. abovesaid, at the C. of L. aforesaid, to be held &c. to inquire &c. to inform aforesaid &c.

At which day, to wit the 12. day of April aforesaid before the same Sheriff of the County aforesaid, came the same T.P. by his Attorney aforesaid. And the said W. H. Bapiff &c. and one of the Ministers of the same Court, returned before the same Sheriff the said Precept, De venire fac. in all things intended and executed.

False Judgment.

Mercy.

And thereupon the Jury being thereof impannelled and called came, and to inquire in form as aforesaid, sworn and charged say, upon their Oath, that the said T. P. sustained Damages, by reason of the taking, and unjust detaining of the Cattle aforesaid; besides his costs and charges by him about his Suit in this behalf laid out to 30 s. and for those costs and charges to 12 d. Therefore it is considered by the Court here that the said T. P. recover against the said P. and J. his said Damages by the Jury aforesaid, in form aforesaid assessed; and also 26 s. to the same T. P. by the Court here, for his said costs and charges of his assent of increase adjudged: which said Damages in the whole, do amount unto 57 s. And the same P. and J. in mercy &c.

Whereupon it was then and there commanded to the same W. Bapstiff, of the Hundred of C. aforesaid that of the Goods and Chattels of the same P. and J. in his Bapstwick, he should levy the Damages aforesaid: and that he have the money before the said Sheriff at the next County Court, at the Castle of Leic. to be held, to wit, the tenth day of May, Anno 41. above said, to render to the said T. P. for his Damages aforesaid: Whereupon the same T. P. prayeth, that the said P. and J. C. would assign and declare to the Court here in what or wherein false judgment is made to him in the said Plaint, if any thing can be found proved, or made appear &c.

And hereupon the same P. and J. say, that the said Record is vicious, and very much defective in this; to wit, that by the same Record it appeareth, that the same Cattle were taken the 15. day of January, Anno 41. above said; and that the complaint thereupon was levied at the County Court of the Sheriff the 19. day of Decemb. An. 41. above said: so that the said complaint was levied before the taking of the cattle aforesaid made &c. Also in this, that by the Record it appeareth, that the County Court aforesaid was held before the said Sheriff of the County aforesaid; whereas the same Court ought to be held before the same Sheriff and Suitors of the same Court: so that the same Plaint was levied Coram non iudice: And the process thereupon adjudged without any Warrant in Law: And so the same P. and J. say, that in the County aforesaid false Judgment was done to them in the said Plaint. And pray that the said Judgment, for those errors and others, in the same Record and proceedings being may be revoked, annulled and altogether taken for nothing: And that they unto all things which they by occasion of the Judgment aforesaid have lost, may be restored &c.

E. 38. Eliz. Ror. 1851. Brownlow Essex ss. It was commanded the Sheriff, that if Ja. V. Would secure the same Sheriff to prosecute his complaint, that then taking with him four discreet and lawful Knights of the County aforesaid, in his proper person, he come to the middle of the Hundred of E. D. Knight of W. St. C. and in the full middle of that Hundred, cause to be recorded that Plaint which was in the same middle of the Hundred, of the Lady the Queen betwix W. T. and the same Ja. in a certain Action upon the Case, to the same W. by the same J. done, as it is said: Whereupon the same Ja. complaineth false Judgment to be made to him in the middle of the said Hundred, and that he should have here the Record at this day, to wit, Mensie Pas, under his Seal, and by four lawful men of the middle of the same Hundred, of those who should be present at the Record; and that he summon by good Summoners the said W. that he should be here, to hear that Record.

And that he have then here the names of the four Knights, and that writ &c. And now here at this day, to wit, Mensie Pas, came as well the same Ja. by H. S. his Attorney, as the same W. T. by E. E. his Attorney.

And the Sheriff, to wit, E. S. Esquire, now returneth, that the same J. found

found to the same Sheriff Pledges to prosecute J. D. R.R. And that the same W. was summoned to be here at this day by J.D. and R.F. and that he by vertue of the same Writ to him directed, took along with him J. C. Gent. T.B. R.D. and H.D. four discret and lawful Knights of the County aforesaid, and in his proper person came to the middle of that Hundred, held at W. St. C. the 15. day of October, An. Regin. 37. and in the full Hundred made to be recorded the said Plaint whereof in the same Writ mention is made, which said Record, here at this day, he hath ready under his Seal, and the Seales of the said four lawful men, who were present at the Record; as by the same Writ to him it was commanded, to answer to the said W. in the same Plea: Whereupon the same J. at the same Court, put in his place T. L. his Attorney, in the same Plea: And the same W. at the same Court, by his Attorney aforesaid, complained against the same J. for that, to wit, that whereas the same W. the last Day of Decem. An. Regin. 37. at W. aforesaid, within the Jurisdiction of the Court aforesaid, was possessed of one peece of wollen cloth, containing eleven Ells price 34 s. as of his proper goods and chattels.

And being so thereof possessed, the same peece of cloth out of his hands and possession casually lost, which said peece of cloth afterwards, to wit, the 24. Day of January then next following into the hands and possession of the said Defendant, by finding came: Notwithstanding the Defendant knowing the said peece of cloth to be the proper peece of cloth of the said Plaintiff and to him of right to belong and appertain; and minding and intending the same Plaintiff of the same peece of cloth, craftily and subtilly to deceive and defraud the same peece of cloth, although thereof the 2d. Day of Febr. Anno 37. abovesaid, he was requested to the same, and hath not delivered; but the same peece of cloth afterwards, to wit, the 16. Day of Feb. then next following at W. aforesaid, within the Jurisdiction of this Court aforesaid, unto his own proper use he converted and disposed, to the Damage of the said Plaintiff of 39 s. And thereof he bringeth Suit, &c. And the said Defendant at the same Court prayeth licence thereof to imparle until the next Court; and hath it &c. the same Day is given to the same Plaintiff then there &c. At which Day the Court was held within the middle of the said Hundred the 26. Day of Novem. then next following, came as well the said Plaintiff, as the said Defendant, by their Attorneys aforesaid. And the same Defendant prayeth further imparlance until the next Court, within the middle of the said Hundred to be held, and hath it &c. The same Day is given to the said Plaintiff then there &c. At which said next Court holden within the middle of the Hundred aforesaid the 17. Day of Decem. then next following came as well the same Plaintiff, as the same Defendant, by their Attorneys aforesaid. And hereupon the same Defendant prayeth further imparlance thereunto, to speak until the next Court in the middle of the same Hundred aforesaid, to be held, and hath it &c. The same Day is given to the said Plaintiff then there &c.

At which said Court held within the middle of the said Hundred the 19. Day of Ian. then next following, came as well the said Plaintiff as the said Defendant by their Attorneys aforesaid. And the same Defendant then defended the force and wrong when &c. And said that he was in nothing guilty of the premisses above imposed upon him, as the said Plaintiff by his said Declaration complained against him; and of this he put himself upon the Countrey and the said Plaintiff likewise: Whereupon it was then commanded to the Bayliff of the middle of the Hundred aforesaid, that he cause to come to the Court in the middle of the said Hundred aforesaid, to be held twelbe free and lawful men of the middle of the Hundred aforesaid, to try the issue aforesaid above joyned, Day was given to the parties abovesaid, then there &c.

False Judgment.

At which said next Court held within the middle of the said Hundred, the 17. day of Feb. then next following belocame as well the said Plaintiff, as the said Defendant, by their Attorneys aforesaid. And the said W. pliff returned the Panel with all the Jurors; whereof twelve being called, came, and were sworn; and said upon their Oath that the said W. was possessed of the said piece of Cloth in the Declaration aforesaid specified: and that the same piece of Cloth, by finding, came to the hands of the said J. V. And that the said Plaintiff requested the same J. to deliver to the same Plaintiff the same piece of Cloth: and that the said Defendant did not deliver the same to the said Plaintiff.

And further the said Jury said, that the said Defendant doth yet detain in his hands the same piece of Cloth: and if upon the whole matter, in form aforesaid found the same Defendant be guilty of the premises in the Declaration aforesaid specified, or not, the Jury aforesaid are altogether ignorant, and pray the advice of the Court in the premises: and if upon the whole matter, in form aforesaid found, it shall seem to the Court that the said Defendant is guilty of the premises in the Declaration aforesaid specified, then the said Jury say upon their Oath, That the same Defendant is guilty of the premises in the Declaration aforesaid specified. And then the said Jury do assess Damages, by occasion of the premises; besides costs and charges by him about his Suit in this behalf laid out to 30 s. and for those costs and charges to 12 d. And if upon the whole matter, in form aforesaid found, it seemeth to the Court here, that the said Defendant is not guilty of the premises in the Declaration aforesaid specified, then the Jury aforesaid say upon their Oath, That the said Defendant is not guilty of the premises in the Declaration aforesaid specified. And because the same Court will advise of, and upon the premises, before they give Judgment therein, day is given to the parties aforesaid here, until the next Court to be held in the middle of the said Hundred, to hear thereof their Judgment &c. At which said Court held in the middle of the said Hundred, the 9th. day of May, then next following came as well the said Plaintiff as the said Defendant. by their Attorneys aforesaid. And because the same Court of giving their Judgment therein are not advised, Day is given to the parties aforesaid, until the next Court to hear thereof their Judgment, &c. At which said Court held in the middle of the said Hundred the last day of May, then next following, came as well the said Plaintiff, as the said Defendant, by their Attorneys aforesaid: whereupon the premises being seen and by the Court here fully understood, it seemed to the Court here, that the same Defendant is guilty of the premises in the Declaration aforesaid specified. Wherefore it is considered by the same Court, That the same Plaintiff recover against the said Defendant, the said 31 s. by the Jury aforesaid, in form aforesaid assessed: and also 22 s. for his costs and charges, by the Court here, by his consent of increase adjudged; which said Damages in the whole do amount unto 53 s. And the said I. in mercy it. And hereupon the said W. prayeth, That the said J. may shew to the Court here, and assign the Defendants, wherein False Judgment is made to him in the said Plaint in the said Hundred, if any be made. Whereupon the same I. saith that the said Record is vicious and much defective; and that False Judgment is done to him in the said Plaint in this, that in the Record no mention is made where that Court of the middle of the Hundred is: and in this, that no mention is made, who is Lord of the middle of the said Hundred, nor who are Justices of the same Court; and also in this, that the Jury have not found that the said T. converted the same piece of cloth to his proper use: and so the same I. saith that others wayes in the said middle of the Hundred False Judgment is done to him in the said Plaint.

And prayeth, that the said Judgement for those divers errors, and others being in the Record, as false and erroneous, may be revoked, and taken for nothing. And that he, unto all which he by reason of the said false Judgement lost, may be restored. And that he Justices have proceed to the Examination of the Premises. And because the Justices here, &c.

E. 42. Eliz. Rot. 1519. Brownlow. Elsewhere as it appeareth, M. 41. and 42. Eliz. Rot. 2186. Heref. II. It was commanded, the Sheriff of H. P. Esq, should secure the same Sheriff, in prosecuting his Complaint, then taking with him, four discreet and lawful Knights of the County aforesaid, in his own person, he come to the Court of G. Carl of S. Son and Heir of S. late Carl of S. G. of his Manor or Lordship of G. in full Court, there make to be recorded, the said Complaint, which was in the Court of the said late Carl of his Manor, or Lordship of G. aforesaid, whilst it abode in the hand of the said late Carl, by a small Writ of the Lady the Queen, de recto, between T. M. Esq; and G. S. Esq; demandants, and J. P. the Brother of the same H. now dead, then Tenant of 20. Mess. two Water Mills, 40. Gardens, 2000. Acres of Land, 300. Acres of Meadow, 1000. Acres of Pasture, 200 Acres of Wood, and 200. Acres of Furze, & Heath with the Appurtenances, in W. G. otherwise G. otherwise E. L. W. otherwise R. &c. within the hundred of W. in the County aforesaid, whereof the same H. (to whom the Tenements aforesaid with the Appurtenances after the death of the said John ought to descend) for that one J. C. R. & P. H. and G. ap. H. being before thereof seised in their Demesne, as of fee by a Writing of feoffment in feoffment thereof, one R. ap. H. T. to hold the same Premises aforesaid to the said R. ap. H. I. for term of his life, the remainder thereof to one R. ap. H. Son of the said R. ap. H. I. and to the Heirs males, of the body of the same R. ap. H. lawfully begotten for ever the remainder thereof further, as in the same Writing of feoffment, it more fully appeareth.

And because the same R. the Father died of such his Estate thereof seised, and the same R. the Son afterwards died of such his estate also thereof seised. And for that the same H. is now of blood, and next Heir male, of the body of the said R. ap. H. to wit, the Son and Heir male, of the body of the same T. P. Esquire, late dead, lawfully begotten, the Son and Heir male of the body of the said R. ap. H. And for that the same J. P. the Brother of the same H. and Son and Heir male, of the body of the said T. lawfully begotten, Son and Heir male, of the body of the said R. ap. H. lawfully begotten, died without any Heir male of his body begotten, complained that false Judgement, was given therein, in the same Court of the said late Carl, upon the said Complaint. And that he should have that recorded here at this day to wit, in O. S. Mich. under his Seal, and by four lawful men of the same Court, of the said now Carl, of these who should be by at the Record. And that he summon

Special Writ of false Judgement.

M. 17. and 18. Eliz. Rot. 1301. false Judgement in droit close in the County Court in Salop.

T. 18. Eliz. Rot. 2199. false judgement between P. and P. in a Plea of claim of bargain and Sale, demurrer in Law. And the judgement was reversed.

T. 19. Eliz. Rot. 2864. Assignment of errors in false judgement.

H. 45. Eliz. Rot. 1308. T. 11. Ja. Rot. 3114. false judgement.

E. 40. and 41. Eliz. Rot. 3114. with B. and P. a Writ of false judgement brought by the Vouches against the Demandants, and the Heir and Tenant, and other Vouches, upon a Writ of Droit Close prosecuted in the nature of a Writ of Entry, *in le part*, in the Manor Court of C. in the County of B. a special Writ.

M. 2. Ja. Rot. 1608. against the Heir of the Recorder, a special Writ.

P. 40. Eliz. Rot. 101. in false judgement, the Plaintiff prays to purchase a better Writ.

False Judgment.

Dominii.

by good Summoners, one H. S. and E. his Wife, who now hold the Tenements aforesaid, that they should be here at this day, to hear that Record. And that he should then have here the Summons, the names of the four men, this Writ and another Writ. And now here at this day, to wit, at the said Oshab, Mich. came as well the said H. P. by T. S. his Attorney, as the said H. and E. by D. J. their Attorney. And the Sheriff, to wit, T. C. Knight, now returneth, that he summoned the said H. S. and E. that they should be here at this day, by W. J. and J. H. And that he by vertue of the said Writ to him directed, took with him J. D. P. W. G. T. and T. H. four discreet and lawful Knights of his County, and in his proper person, came to the same Court of the said G. Carl of S. Son and Heir of the said G. late Carl of S. of his Pannoz or Lordship of S. aforesaid, there held the 19th day of Septemb. Anno Regin. xii. And in the full Court made to be recorded the said plaint. And that Record, and another Writ had here at this day, under his Seal, and by R. C. R. P. J. D. and R. P. four lawful men of the same Court, who were present at that Record. As to him it was commanded, the tenor of which Record, followes in these words.

Goodrich, &c. il. The Court of the Right Honourable G. Carl of S. Carl Marshal of England, of his Pannoz or Lordship of G. there held upon Wednesday the 5th day of Novemb. Anno Eliz. 31. before R. C. of E. Cant. T. A. Esq; chief Steward there, and E. T. W. T. &c. Suitors of the same County according to the Custom of the said Pannoz or Lordship aforesaid, there used and approved from the time, whereof the memory of man is not to the contrary: unto this Court came T. M. Esquire, and J. S. Esquire, in their proper persons, and in full Court there delivered to the Bayliffs of the said Carl, of his Pannoz or Lordship aforesaid, a certain Writ of the Lady the Queen, de recto Claudio, directed to the same Bayliffs in form of Law, according to the Custom of the Pannoz or Lordship aforesaid to be executed, the tenor of which said Writ, followeth in these words,

Elizabeth by the Grace of God, &c. To the Bayliffs of G. Carl of S. of his Pannoz or Lordship of G. greeting, We command you, that without delay and according to the Custom of the said Pannoz or Lordship of G. ye hold full right to T. M. Esq; and G. S. Esq; of 20. Mes. two Watermills, 40 Gardens, 2000 Acres of Land, 300 Acres of Meadow, 1000 Acres of Pasture, 200 Acres of Wood, and 200 Acres of Furze, and Heath with the Appurtenances in W. G. &c. within the hundred of W. in the County of Heref. which J. P. Esq; then enforced, that we hear no more clamour thereof, for defect of right, Witness our self at Westminster the 20 day of Novemb. Anno, 30. And hereupon the same T. M. and G. S. protest to follow that Writ in the same Court, in the form and nature of a Writ, of the said Lady the Queen, de ingressu sup. disseisin in le poss. at the common Law, according to the Custom of the Pannoz, or Lordship aforesaid. And they found Pledges to prosecute their said Writ, in form and nature aforesaid, to wit, Jo. D. and R. R. And prayeth process thereof, to be made for themselves against the said J. P. according to the custom of the said Pannoz or Lordship. And it is granted to them, &c. And demand against the said J. P. the Tenements aforesaid, with the Appurtenances as their Right and Inheritance. And into which, the same J. P. hath no entry, unless after disseisin, which H. H. thereof unjustly, and without judgment, made to the same T. M. and G. S. within 20 years now last past. And whereupon they say, that they were seised of the Tenements aforesaid, with the Appurtenances in their Demise, as of fee right in the time of peace, in the time of the Lady the Queen, now taking thereof the profits, to the value, &c. And into which, it. And thereof byingeth suite &c. And the same J. P. in his proper person, cometh and defendeth his right, when &c. And voucheth thereof to warranty, J. S. who is present here in Court, in his proper person, who freely the Tenements

tenements aforesaid, with the Appurtenances, to him warranteth, &c. And hereupon the said T. M. & G. S. demand against the same J. S. Tenant, by his own warrant, the Tenements aforesaid, with the Appurtenances in form aforesaid, &c. And whereupon they say, that they were seised of the Tenements aforesaid, with the Appurtenances in their Demesne, as of fee & right in the time of peace, in the time of the Lady the Queen, now taking thereof the profits, to the value, &c. And into which, &c. And thereupon bring Suit &c. And the said J. S. Tenant, by his own warrant, defendeth his right, when, &c. And saith, that the said H. H. did not offend the same T. M. and G. S. of the Tenements aforesaid, with the Appurtenances as the said T. M. & G. S. by their Writ, Protestation, and Declaration aforesaid above supposed. And of this he putteth himself upon the Country, &c. And the same T. M. and G. S. pray licence thereof to impart. And have it, &c. And afterwards the same T. M. and G. S. come again here into that same Court, in their proper persons. And the same J. S. although solemnly called came not again but in contempt of the Court, departed and made default. Wherefore by the Suitors aforesaid it is granted, that the same T. M. and G. S. recover against the said J. P. the Tenements aforesaid, with the Appurtenances, And that the said J. P. have of the Lands of the said J. S. to the value &c. And the said J. S. in mercy, &c. And hereupon the same T. M. & G. S. pray a precept, to cause to be delivered to them full Seisin of the Tenements aforesaid, with the Appurtenances to be directed to the Writ of the Pannor, or Lordship aforesaid, of this Court: and it is granted unto them, returnable here forth with, &c. And afterwards to wit, the same 5th day of Novemb. at the same Court came the said T. M. and G. S. in their proper persons. And hereupon, at the same Court, came J. P. Writ of the Pannor, or Lordship aforesaid, and Minister of this Court. And certified the Court here, that he, by virtue of the same precept to him directed, the same 5th day of Novemb. Anno 31. Eliz. &c. caused to be delivered to the same T. M. and G. S. full Seisin of the Tenements aforesaid with the Appurtenances, as by the same precept it was commanded him. In testimony whereof, as well the keeper of the place as the said R. P. J. D. and R. P. Suitors in the Court, have put their Seals. At the Court of the Pannor or Lordship aforesaid, there held the 19th day of Septemb. Anno, &c. 41. And hereupon the same H. and E. pray, that the said H. assign, and declare to the Court, in what, or wherein false judgement to them is done in the said plaint, if any, &c. And hereupon the said H. P. saith, that for divers reasons, the judgement in the said plaint is false to wit in this, that by the same Writ de Recto, &c. it was commanded to the Writ of the said G. Earl of S. of his Pannor or Lordship of G. that with out delay, according to the Custom of the said Pannor or Lordship of G. full right should be held to the same T. M. and G. S. of the Tenements aforesaid, with the Appurtenances, which said Writ bears test the 28. of Septemb. Anno 40. Eliz. And the same T. M. and G. S. commenced, and prosecuted their Complaint, in form and nature aforesaid, upon the said Writ de recto Claudio, at the first Court there held upon Wednesday the 5th of Nov. Anno Eliz. 31. whereby it well appeareth, that two years were past, before the said plaint was commenced and prosecuted, in form aforesaid upon the said Writ de recto Claudio, and so it was not prosecuted without delay, according to the form and defect of the same Writ. And also in this that the said Writ de recto Claudio, is directed to the Writ of the said G. Earl of S. of his Pannor or Lordship of G. And the same T. M. and G. S. made protestation to prosecute the said Writ in the same Court, in the form and nature of a Writ of the Lady the Queen, de ingressu sup. disseiam in le poss. at the Common Law, according to the Custom of the Pannor or Lordship aforesaid. And do not shew that the said Pannor or Lordship was held, Coram locum tenen. and the Suitors.

Assignment
of Errors.

And

Falle Judgment.

And that the Judgement was given befoze the Suitors only, and not befoze the Wyllyss of the said Mannor or Lordship, ne2 any iustification was made that the said Wyllyss, of the Mannor aforesaid, were Suitors of the same Mannor. And also in this, that it doth not appear by the same Writ of rectification, nor by the Record, that the Tenements aforesaid, with the Appurtenances, nor that the Tenements recovered, to the value, are, or were within the same Mannor, or within the jurisdiction of the Court of the same Mannor. And also in this, that the same T. M. and G. S. demanded process against the said J. P. according to the Custom of the Mannor, or Lordship aforesaid, And it was then granted to them, and do not shew, who, or to whom the said process was directed or whether any process was made or not, nor shew the return of any process, nor the day of the return, nor of the appearance of the parties by Attorney, or in person, or whether the same J. P. was summoned to be at the same Court, by sufficient Summoners, by the same process, or not as of right, and according to the Custom of this Realm of England it ought. And also in this, that it appeareth by the said Record that the said J. S. Tenant, by his Warranty defended his right. when, &c. and make no mention, that the said I. S. appeared by his Attorney, or in person. And also in this, that the same T. M. and G. S. have alledged, that they desired licence thereof, and do not shew how long, nor any day of imparling, nor any time certainly to imparl. And have it &c. nor that the same day was given to the Tenant, as it ought to be. And afterwards, the same T. M. and G. S. came again into Court, into the same Court, in their proper persons, And the same I. S. although solemnly called, came not again, but in contempt of the Court, dep'ried and made default, whereby it appeareth, that Licence to imparle to the issue aforesaid, in form aforesaid joyned, and the default in contempt of the Court, were at one onely Court, which could not be conveniently done. And also in this that the same J. P. Wyllyss, of the Mannor aforesaid, and Minister of the same Court, by vertue of a certain precept to him directed caused to be delivered Hesselin, of the Tenements aforesaid. And it doth not appear by the Record, that any Warrant or Precept was made to the said I. to do that. And hereupon the said H. prayeth that the judgement aforesaid for those errors, and others, being in the same Record, may be revoked and annulled, and that to the possession of the Tenements aforesaid, together with the profits thereof received from the time of the giving of the said false judgement; and also, that he unto all which he hath lost by occasion of the said false judgement, may be restored, &c. And hereupon the same H. S. and E. reserbing to themselves all and every advantages, exceptions and allegations, as well to the Writ, as to the Record, as to the errors aforesaid, pray licence thereof, to imparle here until xv. nam Pas. And have it &c. the same day is given to the same H. here, &c. At which day here came as well the same H. as the same H. S. and E. by their Attorneys aforesaid. And hereupon the same H. and E. pray judgement of the said Writ, because they say, that well and true it is, that the said H. is Brother and Heir of the same J. P. in the same Writ mentioned. And that at the same Court of the same G. Earl of S. of his Mannor, or Lordship of G. aforesaid, there held upon Wednesday the fifth of November. An. Regis. &c. 31. abovesaid, befoze the then holder of the place, there the same T. A. and the same Suitors of that Court, according to the Custom of that Mannor.

The same T. M. and G. S. in their proper persons in full Court there delivered to the Bayliffs of the same Earl of his Pannoz or Lozship aforesaid, the same Writ of the said Lady the Queen, De recto clauso; and that the recovery of the Tenements aforesaid in form aforesaid, had and prosecuted, was had and prosecuted in form aforesaid.

And that the same recovery was had and prosecuted to the use of the same I. P. and of the same E. one of the now Tenants, then being the wife of the said I. and to the Heirs of the same I. of his body, upon the body of the same E. lawfully begotten; and for default of such Issue, to the use of the right Heirs of the same I. P. and their Heirs for ever. By vertue of which said recovery, and by force of the Statute in the Parliament of the Lord Hen. late King of E. the 8. at Westmin. in the County of Midd. the 4th. Day of Feb. Anno &c. 37. of transferring of uses into possession made and provided the same I. P. and E. were seised of the Tenements aforesaid, to wit, the same I. P. in his Demeasne, as of fee tail.

And the same E. in her Demeasne, as of her frank Tenement for term of her life, the remainder thereof in form aforesaid belonging.

And the same I. P. and E. being so thereof seised the same I. P. afterwards, and before the Day of the purchase of the said Writ of false Judgment, to wit the 10th. Day of D. Anno Eliz. 32. at G. aforesaid died. And the same E. him survived, and kept her self within; and was seised of the tenements aforesaid, with the appurtenances in her Demeasne, as of frank tenement for the term of her life, by the right of accretion &c.

And the same E. being thereof seised, the same E. afterwards, to wit, the 14th. Day of Septemb. Anno Regin. &c. 32. at G. aforesaid demised the tenements aforesaid, with the appurtenances to the same H. P. to have and to hold it to the same H. and his Assigns, from the Feast of Saint Mich. the Archangel, then next following, unto the end and term of sixty yeares then next following, and fully to be ended, if the same E. and H. should so long live.

By vertue of which Demise the same H. into the Tenements aforesaid, with the appurtenances entred, and was and yet is thereof possessed; And the same H. being so thereof possessed; and the same E. of the Reversion of the Tenements aforesaid, with the appurtenances in her Demeasne, as of her frank tenement for term of her life in term aforesaid, being seised the same E. at G. aforesaid, took to Husband the same Henry: Whereupon the same H. and E. in the right of the same E. were seised of the Reversion of the Tenements aforesaid, with the appurtenances in their Demeasne, as of frank Tenement for the term of the life of the same E. and the same H. was possessed of the tenements aforesaid, with the appurtenances, for the term of the years aforesaid. And the same H. and E. being so thereof seised, and the same Hugh of the Tenements aforesaid, with the appurtenances, in form aforesaid being possessed, the same Hugh, the same Writ of False Judgment in form aforesaid purchased and prosecuted, supposing by that Writ that the said Sheriff of Heref. summoned the same H. and E. as Tenants of the Tenements aforesaid; whereas in truth the said Hugh held and possessed, and at the time of the purchase of the Writ of False Judgment, did hold and possess the Tenements aforesaid, with the appurtenances, in form as aforesaid. And this they are ready to verifie: whereupon they pray Judgment of the same Writ, &c.

And the said Hugh saith that the Plea of the same Hen. and E. in quashing of the aforesaid Writ of the said Hugh, above pleaded, is not sufficient in law, to quash the said Writ of the said Hugh; and that he to the said Writ in manner and form aforesaid pleaded, needs not, nor by the Law of the Land is bound to answer.

False Judgment.

And this he is ready to verifie, whence for default of a sufficient Plea of the same H. and E. in this behalf, the same Hugh prayeth Judgment; and that his said Writ may be adjudged good in Law, &c.

WILLIAMS.

And the same H. and E. for that they sufficient matter in Law to quash the said Writ of the same Hugh above by pleading have alledged, which they are ready to verifie: Which said matter, the said Hugh doth not gainsay, nor therein unto any thing answer, but altogether refuseth to admit the same averment; as before pray Judgment of that Writ; and that the said Writ may be quashed &c. And because the Justices &c.

SPURLINGE.

Formdon in Descendre.

Formdon in Descendre, brought by the Brother and Heir of the Son of the Donee in rayl general, upon the Statute of *Westmin. 2. cap. 1. Poulton. 48.* which is *13. E. 1. cap. 1.*

Entry of the Writ of *Petit Cape in forma Donationis in Descender* upon default, after the appearance of the Tenant.

The *J. Rot. 18. Brownlow*, amongst the pleas of Land elsewhere, as it appeareth in the Term of *St. Hillary, An. Regis 8cc. 9. rot. 85.* it is thus contained: City of York, *W. L.* elsewhere in the Court of the King hereby *R. B.* his Attorney, demandeth against the Warden, Teacher or Master of the School of the Eleemolynary Poor of the Hospital of *St. Iohn Baptist of K. R.* one mess. with the appurtenances in the parish of *A.* upon the Pavement, by Writ of the said Lord the King, De forma Donationis in Descendre; and the same Warden, Teacher or Master had thereof day here, until *Tres Pas. last past*: and afterwards at another time appeared here in Court: At which day the said Warden Teacher, or Master made default, so that then it was commanded the Sheriffs that they should take the mess. aforesaid, with the appur. into the hands of the Lord the King, and that they summon by good Summoners the same Warden, Teacher, or Ma. that they should be here at this day, to wit, *xv. na. Michaelis* to hear thereof the Judgment, &c. At which day here came the same *W. L.* by his Attorney aforesaid. And the Sheriffs then did nothing therein, nor sent the Writ thereof. Therefore as before then it was then commanded the Sheriffs that they should take into the Kings hands the mess. aforesaid, with the appurtenances; and that they summon by good Summoners the same Warden, Teacher, or Master, that they should be here at this day to wit, *St. Hill.* to hear thereof the Judgment &c. And now here at this day came as well the said *W. L.* by his Attorney aforesaid, as the same Warden, Teacher, or Master, summoned &c. by *W. B.* their Attorney. And the Sheriffs now returned, that they took &c. And that they summoned &c. And hereupon the same *W. L.* freely here in Court remitteth and releaseth to the said Warden Teacher or Master the said Default which they made here

here at the said Tres Pas. And demandeth against the same Warden Teacher, or Master, the Messuage aforesaid, with the appurtenances, which J. L. gave to I. L. Son of the said J. and to the Heirs of his body issuing: and which after the death of the same T. and of R. Son and Heir of the same T. to the same W. as Brother and Heir of the same T. ought to descend by form of the said Gift &c. And whereupon he saith, that the same J. L. was seised of the Messuage aforesaid with the appurtenances in his Demeasne as of fee: and being so thereof seised, the Messuage aforesaid, with the appurtenances held of the Abbd H. late King of England the 8. as of his Mannor of E. in the County of E. in free Socage; to wit, by fealty onely for all services. And being so thereof seised the same J. the 29. Day of April, An. Dom. 1541. at the aforesaid Parish of A. made his Will and last Testament in Writing: and by the same Will gave and bequeathed the Messuage aforesaid with the appurtenances amongst other things, to the same T. Son of the same J. and the Heirs of his body, lawfully issuing in form as aforesaid. And afterwards the same J. at the same Parish of A. died of the Messuage aforesaid with the appurtenances in form aforesaid seised: after whose death the same T. into T. the Messuage aforesaid, with the appurtenances entered and was thereof seised in his Demeasne as of fee and right by vertue of the same Legacy, by form &c. in the time of peace, in the time of Edward, late King of England the 6th. taking thereof the profits to the value &c. And from the same T. descended the right by form &c. to the same R. as Son and Heir &c. And from the same R. for that he died without Heir of his body begotten, the right descended to the same William, who now demandeth as Brother and Heir, &c. and that after the death &c. and thereupon bringeth Suit, &c. And the same Warden Teacher, or Master, defendeth that right when &c. And pray licence thereof to imparle here until xv. Pas. and have it &c. The same Day is given to the same W. L. here &c. and so continued further, until Tres Trin. next. And now here at this day, to wit, Tres Trin. came as well the said W. L. as the said Warden Teacher, or Master by their Attorneys aforesaid. And hereupon the same W. L. demandeth that the said Warden Teacher or Master, to his Will and Declaration aforesaid, may answer &c. And the same Warden Teacher, or Master, as before, defendeth their right when &c. And saith that the said J. L. did not give or bequeath the Messuage aforesaid, with the appurtenances, to the same T. and the Heirs of his body issuing, as the same W. L. by his Will and Declaration aforesaid above supposeth: and of this he putteth himself upon the Countrey; and the said W. L. likewise: Therefore the Sheriffs are commanded, that they cause to come here in Cro. Aia. &c. the Jury in xv. nam. Pas. after wards the day and place &c. the Tenant makes default at the Assizes Judgment, that the Messuage with the appurtenances, be taken into the hands of the King; and that the same Warden be summoned, that they be here Oct. Mich. to hear thereof the Judgment &c. At which day here cometh the same W. L. by his said Attorney and offered himself the 4th. of y. against the same Warden Teacher or Master of the same Plea; and they came not, but at another time made default: and the Sheriffs now returned that they took &c. and that they summoned &c. Therefore it is considered, that the same W. recover his Seisin against the said Warden Teacher or Master of the Messuage aforesaid with the appurtenances: and the same Warden Teacher, or Master, in mercy &c. the Will of Seisin awarded returnable, xv. nam. Martini. Error.

Pedigree.

Count de seisin of the Donor in fee, and held of the King in Socage, and deviseth the house in general ray by Will in Writing

The Donor died seised.

The Donee enters, and takes the profits by the Devise.

The profits belong to the Donee onely, 11. E. 3.

Note that the *Formdon in Discender* was not before the Statute of 32. H. 8. ca. 2. of Limitations default of *Esplees* abates the writ; and to alleadge *Esplees*, is not traversable.

The Tenant saith that the Donor did not bequeath.

Petit Cape awarded, after default made by the Tenant at the Assizes.

Petit Cape returned and Judgment that the Demandant shall have his seisin. Mercy.

Formdon in Reverter.

T. 26. Eliz. Rot. 20. H. 26. Eliz. Rot. 431. Formdon in Reverter, where the Demandants after the last continuance dy; and the other Demandant brings a new Writ.

M 14. Jac. Rot. 180. Bro. Amongst the Pleas of Land, Kent ss. J. B. and R. B. Demandants against Ja. G. in a Formdon in Reverter of Lands in F. and S. as in the Count next before, as Cozens and Heirs of the Donor for that the Lands are Gavelkind; and declare as in the Count last before: and that the Lands in F. and S. aforesaid, are of the Tenure of Gavelkind; this Declaration was as the Declaration before in such points, (mutatis mutandis) for that one of the Demandants died, Tenants plead a Common Recordy and aver the Writs &c. in Bar: Whereupon a Demurrer and the Demurrer depending &c. And because the Justices here will advise themselves &c. At which day here came as well the same R. B. as the said J. by their Attorneys aforesaid; and the same I. came not: and hereupon the same R. saith that the said Jo. after the last continuance of the same plea, to wit, after the said Crin. Trin. and before this day; to wit, such a day at S. aforesaid died: and prayeth liberty to acquire or purchase a better Writ. And because the same Ja. doth not gainsay it, it is granted to him &c. Upon which Writ the next Declaration is groundd.

Count in Formdon in Reverter, brought by the Cozen and Heir of the Donor.

Vid. Articlos ad novas Narr. Fol. 286. This Writ is within the Statute of Limitations, 32. H. 8. cap. 2.

Counts that the Donor was seised, and takes Esplees, and deviseth in rayl general.

M. 8. Ja. Rot. 2133. Soccage tenure.

M. 9. Ja. Rot. 145. Esplees alleadged in the Donor.

M 16. J. Rot. 128. amongst the Pleas of Lam. Brownlow Kanc. ss. R. B. by J. M. his Attorney, demandeth against Ja. G. six Mess. and six yard. with the appurtenances in F. and S. which E. F. Uncle of the said R. whose Heir he is gave to the same F. and Alice F. and the Heirs of their Bodies begotten: and which after the deaths of the same I. and A. unto the same R. ought to revert by form of the same gift, because the same I. and A. died without Heirs of their bodies begotten: and whereupon he saith, that the same E. and F. were seised of the tenements aforesaid, with the appurtenances in their Demesne, as of fee and right in the time of peace, in the time of H. 8. taking thereof the profits, to the value &c. And the same Tenements with the appurtenances, held of F. C. of Kildare, as of his Mannors of F. and S. in the County aforesaid in free Soccage; to wit, by fealty once for all services. And being so thereof seised, the same E. the 20. day of An. H. 8. 35. at S. aforesaid, made his Testament and last Will in writing, and by his same Will gave and bequeathed the same tenements, with the appurtenances by the names &c. to the same I. and A. and to the Heirs of their bodies lawfully begotten. And for default of such Issue, to the right Heirs of the said E. forever: and afterwards at S. aforesaid died of such his estate thereof possessed, after whose death the same I. and A. into the tenements aforesaid, with the appurtenances entred, and were thereof possessed in their Demesne, as of fee and right by form &c. By virtue of the same Legacy, in the time of peace in the time of the late King H. 8. taking thereof the profits, to the value &c. And from the same I. and A. for that they died without Heirs of their bodies begotten, the right reverted by form &c. to the same Richard, who now demands as Cozen and Heir of the said E. F. to wit, Son of S. B. Son

Donees enters and takes the Esplees.

Pedegree.

Son and Heir of L. F. Son and Heir of W. F. Broth and Heir of the said E. F. the Donor, and which after the death &c. for that &c. And thereof byings Suit &c. And the same J. by his last Will in Writing, because he saith, that well and true it is, that the same E. F. was seised of the Tenements aforesaid, with the appurtenances in his Demesne, as of Fee: And being so thereof seised, the same E. by his last Will in Writing, gave and bequeathed those tenements, with the appurtenances, to the said L. and A. and to the Heirs of their Bodies lawfully begotten: and for default of such Issue to the right Heirs of the same E. for ever, and afterwards died of such his Estate thereof seised; as the same R. hath above declared: But the same J. further saith, that at the time of the death of the same E. the same L. and A. were

Daughters and Heirs of the same E. and that after the death of the same E. the same L. and A. into the tenements aforesaid, with the appurtenances entered and were thereof seised in their Demesne, as of Fee-tail, to wit, to them and the Heirs of their Bodies lawfully begotten, the reversion thereof to the same L. and A. and their Heirs belonging and appertaining: By virtue of the Legacy aforesaid; and the same L. and A. being so thereof seised, the same L. afterwards, to wit, the 1. day of May, An. 3. E. 6. at S. aforesaid, died of such his estate thereof seised, without Heirs of her Body begotten: And the same A. survived, and kept her self within the tenements aforesaid, with the appurtenances and was thereof solely seised, to wit, of one moiety thereof in her Demesne, as of Fee, and of the other moiety thereof in her Demesne, as of Fee-tail, in form aforesaid, the Reversion of the same moiety to her, and her Heirs belonging: and so being seised of the tenements aforesaid, with the appurtenances, the same A. afterwards, to wit, the 1. day of May An. 4. E. 6. at S. aforesaid, took to Husband one I. W. by which the same L. and A. in the right of the same A. were seised of the tenements aforesaid, with the appurtenances, to wit, of the one moiety thereof in their Demesne, as of Fee, and of the other moiety thereof in their Demesne as of Fee-tail; to wit, to the same A. and the Heirs of the Body of the same A. begotten, the reversion of the same moiety to the same A. and her Heirs belonging.

And the same L. and A. so thereof being seised, levied a certain Fine in the Court of the said King E. 6. in the Bench here, to wit, at West, from the day of Easter in 15. days An. 3. E. 6. sexto before E. M. H. B. J. H. and E. M. then Justices of the said King, and other faithful people of the same King there present, between one T. F. Plaintiff, and the same J. W. and A. by the names of J. W. and A. his Wife: Deforcants of the Tenements aforesaid, with the Appurtenances, by the names of eight Messuages, two Bars eight Gardens, twelve Acres of Land, ten Acres of Meadow 40. Acres of Wood, and ten Acres of Parish, with the Appurtenances in S. and F. whereof a Plea of Covenant was summoned between them in the same Court; to wit, that the same J. and A. acknowledged the Tenements aforesaid, with the Appurtenances, to be the right of the same T. as those which the same T. had of the Gift of the same J. and A. and the same remised and quit-claimed from the same J. and A. and the Heirs of the same A. to the same T. and his Heirs for ever.

And besides the same J. and A. granted for themselves, and the Heirs of the same A. that they would warrant &c. the Tenements aforesaid with the Appurtenances against

Bar in Formdon, in Reverter, the Tenant onfeeth the gift; but saith further, that the Donee was Heir to the Donor, and was seised in tail, with the reversion in Fee expectant; and that a Fine was levied by the Donee to J. who infeoffed the Tenant.

Reversion in fee expectant upon the estate tail.

A Fine levied of the Lands given in tail.

M. 34. and 35. Eliz. Rot. 22. a Formdon of Lands in Kent, brought by two Co-Heirs Males, in Gavelkind, and the Tenure is expressed in the Writ and Court.

Averment of the use of the Fine.

Formdon in Discendre.

all men for ever ; as by the same Fine in the Court of the King here ; to wit, at Westm. aforesaid, upon Record remaining it more fully appeareth, which said Fine, in form aforesaid levied, was had and levied to the use of the said J. W. and his Heirs for ever. By vertue of which Fine, and by force of a certain Act of Parliament, of H. late King of England, the 8. at Westminster, in the County of Midd. 4. Feb. Anno 37. of transferring of uses into possession held made and provided, the same J. W. was seised of the Tenements aforesaid, with the Appurtenances above demanded, in his Demeasnes as of Fee. And being so thereof seised, the same A. died without Issue of her body begotten, as the same R. hath above declared. And the said Ja. of the same Tenements, with the appurtenances, in form aforesaid, being possessed the same J. of the Tenements aforesaid, with the appurtenances infeofed one J. G. to hold to him and his heirs for ever. By vertue of which Feoffment, the same Ja. G. was, and yet is seised of the Tenements aforesaid, with the Appurtenances above demanded, in his Demeasne, as of fee : and this he is ready to verifie &c. Judgment if Action.

Afeoffment
in fee plea-
ded.

FINCH.

H. 12. J².
Ror. 3238. And the same R. B. saith, that he ought not to be barred &c. because he saith that the Tenements aforesaid with the Appurtenances, in the Declaration aforesaid above demanded, are not contained in the Fine aforesaid ; as the same Ja. hath above alleadged ; And this he is ready to verifie : And prayeth Seisin &c.

HENDEN.

H. 8. J. Rot.
715.
M. 11. I.
Ror. 937. And the said James saith, that the Tenements aforesaid, with the appurtenances above demanded, are contained in the Fine aforesaid ; as the same I. hath above alleadged : and of this he putteth himself upon the Countrey, and the same R. likewise : Wherefore resac. returnable, Oct. Hill. And after Cro. Aiap. 17. Ia. At the Bar the Defendant was non-suited after full Evidence, because the Tenant proved his Issue in substance.

The Tenant pleads, that the Demandant is not Cozen and Heir of the Donee in rayl.

E^{38. Eliz. Ror. 73. Brownlow, Sallop, ff. E. against W. and others, Formdon in Discendre, brought by the Cozen and Heir of Ro. Son of I. S. and E. his Wife, of one Mesuage &c. with the appurtenances in E. of the Gift, &c.}
And the same R. W. defends his right &c. and saith that the said H. is not the Cozen and Heir of the said Ro. Son of I. S. and E. his Wife (the Donors) in form, as the said H. by his Will and Declaration aforesaid above supposeth. And of this he putteth himself &c.

WARBURTON.

M^{40. Eliz. Ror. 18. Bro. Nor. ff. C. M. Against H. R. Gent. Formdon in Discendre of Lands in S. which N. M. gave to I. M. his Son. and I. his}

I. his Wife, and the heirs of their bodies begotten; and that after the death of the Donces, and N. Son and Heir of the Donces, to the Demandant, as Cozen and Heir ought to discend.

Tenant for part pleads non tenure; and for the rest saith, that the Donces had Issue John their Son, who after the death of the Donces entred, and infeoffed the Tenant, whereby he is seised without this, that the said I.M. and I. his Wife had Issue the said N. as the Demandant by his Declaration supposes, &c. Heron, Issue upon the traverses.

Issue upon the Pedigree, in Formdon in Descender, brought by the Cozen and Heir.

GLANVILLE.

M5. Ia. Rot. 142. Formdon in Remainder.

T¹⁷, I. Rot. 38. Amongst the Pleas of Land Brownlow, Southampt. ss. lo. Com. Cg; by S.W. his Attorney dem. ndeth against N. P. twelve acres of Land,

Formdon in Discendre; brought by the Heir of the Heir of the Donces.

with the appurtenances in E. and O. which A. C. gave to Richard C. and A. his Wife, and the Heirs of the bodies of the same R. and A. born; and which after the said R. and A. and I. C. Son and Heir of the same R. and A. of their bodies lawfully begotten, to the same I. now Deman. Son and Heir of the said I. Son and Heir of the same R. and A. ought to discend by form of the Gift aforesaid &c. And whereupon he saith, that the same A. C. was seised of the said twelve Acres of Land with the appurtenances amongst other things and of two Messuages, and twenty Acres of Land, with the appurtenances in Y. in the County aforesaid in his Demeasne as of Fee: and those whole Tenements, with the appurtenances held of S. then Bishop of W. as of his Pannor of E. with the appurtenances in the County aforesaid in Fee Socage; to wit, by Fealty only for all Services. And being so thereof seised the 24. day of March, An. Dom. 1646. at E. aforesaid, made his Testament and last Will in Writing: and by the same last Will amongst other things, gave and bequeathed to the same R. and A. one moiety of the whole Ten. aforesaid, with the appur. to have and to hold to the same R. and A. and the heirs of the bodies of the same R. and A. begotten; and the other moiety of the whole Ten. aforesaid, with the appur. to one T.H. and the heirs of his body to be begotten; and afterwards at E. aforesaid died of the whole ten. aforesaid, with the appur. in form aforesaid seised; after whose death the same R. C. and A. and T.H. into the whole ten. aforesaid, with the appur. entred, and were thereof seised, to wit the same R. and A. of the one moiety thereof in their Demeasne as of Fee-tail, to wit, to them and the heirs of the bodies of the same R. and A. begotten; and the same T. of the other moiety thereof in his Demeasne, as of Fee-tail, to wit, to him and his heirs of his body to be begotten by form &c. in the time of peace in the time of H. late King of England the 8. taking thereof the profits, to the value &c.

Count.

Tenure in Socage.

Devise of the moieties.

And the same R. C. and A. of their moiety of the whole Tenements aforesaid, with the appurtenances in form aforesaid, being seised, the same R. C. and A. had Issue of their Bodies lawfully begotten the same J. C. the Father of the same I. C. now Demandant; and afterwards the said Rich. at E. aforesaid died of such his Estate thereof seised; and the same H. him survived, and kept her self within the moiety aforesaid; and was thereof solely seised in her Demeasne, as of Fee and Right by form &c. by right of accretion &c. And the same A. being so thereof seised the same T. & A. the 8. day of March, An. prim. Eliz. at E. aforesaid, by their certain Writing indented, between the same T.H. by the name of T.H. son and heir of J. H. then living, and

Partition by Indenture.

Formdon in Descendre.

and Johan, his Wife then deceased, Daughter, and one of the Cobeirs of the said A.C. late of G. in the County of S. deceased, of the one part, and the same Agnes by the name of A.C. of G. aforesaid Widow, late Wife of R.C. deceased, second Daughter and Cobeir of the said A. of the other part made, which of her part with the Seal of the said T. H. Sealed, the same J.C. now Demandant here into the Court, bringeth the Date; whereof is the same Day and Year made Partition between them, of the whole Tenements aforesaid, with the Appurtenances, amongst other things. By which said Partition, the same twelve Acres of Land, with the Appurtenances, amongst other things were assigned and allowed to the same A. in allowance of the whole moiety to her out of the whole Tenements aforesaid happening. And the same two Messuages and twenty Acres of Land, with the Appurtenances in Y. aforesaid, of the whole Tenements aforesaid residue amongst other things, by the same Partition, were assigned and allowed to the said T.H. in allowance of the whole moiety to him, the same T. out of the Tenements aforesaid happening. By virtue of which Partition, both the same T. and A. into the Tenements aforesaid, with the Appurtenances by the same Partition as aforesaid, allowed and assigned, severally entered, and were thereof seised to wit, the same A. of the said twelve Acres of Land with the Appurtenances thereof demanded, amongst other things to her, as is premised, allowed and assigned in her Demourne, as of fee and right by the form &c.

And the same T. of the same two Messuages, and twenty Acres of Land, with the Appurtenances in Y. aforesaid, residue of the Tenements aforesaid; with the Appurtenances, amongst other things in his Demourne as of fee and right, by the form &c. in the time of peace in the time of Mary, late Queen &c. taking thereof the profits, to the value &c. And from the same A. descendeth the right of the said twelve Acres of Land with the Appurtenances above demanded by the form &c. to the said I. C. Father of the said I.C. now the Demandant as Son and Heir &c. And from the said I. C. descended the right by the form &c. to the said I.C. now the Demandant as Son and Heir &c. and which after the death &c. And thereof bringeth Suit &c. See the Bar hereunto in the 2d. Fol. before A. which note.

M II. Ja. Rot. 56. before Hobarr, between the Earl of B. and the Lord L. Formdon in Reverter Plea in abatement, and Demur thereupon, and Judgment for the Demandant and responds ouster.

T 8. Jac. Rot. 134. Pleas of Land, Crompton, Devon. It is granted by the Court of the King here, that W.A. and R.S. jointly and severally follow for Jane Cole, who is within age as the next friends of the same J.C. together with R. and E. his Wife F.W. Widow, and B.H. Widow, against T.B. P.K. E.S. W.W. and R.D. in a Plea of Land.

Entry of the admission of Proche in Amy to procure for an Infant in a Plea of Land.

Formdon in Descendre by the Son of the Donee, in rayl general.

H 17. Jac. Rot. 62. Amongst the Pleas of Land, s. Brownlow City of Lincoln, s. William Kent the younger by R.C. his Attorney, demandeth against W.K. the Elder one Messuage, with the Appurtenances, in the Parish of Saint Maries, in C.L. which W.K. Gent. the Grandfather of the said W. Kent the younger gave to Rich. his Son, and the Heirs of his Body lawfully to be begot.

begotten. And which after the death of the said R. unto W. Kent, the younger Son and Heir of the same R. ought to descende by form of the said gift, &c. And whereupon he saith, that the City of Lincoln is, and from the time whereof no memory of man is extant, was an ancient City, and that all Lands and Tenements in the same City, are, and by the whole time aforesaid, were devisable, and divisible legabilia & legat. And that the same W. K. the Grandfather was seised of the Messuage aforesaid, with the Appurtenances in his Demesne, as of fee. And being so thereof seised the 12. day of March, An.

Eliz. 37. at the City of Lincoln, made his Testament and last Will in writing, And by the same Will, amongst other things, gave and bequeathed the same Messuage, with the Appurtenances to R. K. his Son, and the Heires of his Body lawfully to be begotten, And afterwards, the same W. K. the Grandfather at the C. of Lincoln, died of the Pl. aforesaid, with the Appurtenances in form aforesaid seised, after whose death, the same R. into the Messuage aforesaid, with the Appurtenances entred, and was thereof seised in his Demesne, as of fee and right, by the form, &c. by vertue of the gift and Legacy aforesaid, in the time of peace, in the time of the King, now taking thereof the profits, to the value, &c. And from the same R. descendeth the right, by the form, &c. to the same W. who now demandeth as Son and Heir, &c. And which after the death, &c. and thereof bringeth Suff, &c. Leo. Brotree.

And the same W. K. the elder, by R. S. his Attorney commeth and defendeth his right, when, &c. And saith, that he cannot gainsay the Action of the same J. K. the younger aforesaid, nor but that the Messuage aforesaid, with the Appurtenances, is the right of the said W. K. the younger, in such form: as the same W. by his Will and Declaration aforesaid, above supposeth: Wherefore it is considered, that the same W. K. the younger, recover his Seisin against the said W. K. the elder, of the Pl. aforesaid, with the Appurtenances. And the same W. in mercy, &c. the Will of Seisin awarded, xv. Pas. H. 26. H. 8. Rot. 104. the like Confession. P. 8. Ja. Rot. 114. the like. Mich. 18. Jac. Rot. 40. amongst the Pleas of Land, Brownlow, see the Court for Compton, in the last before, against Pinck, And the same N. by W. B. his Attorney commeth and defendeth his right, when, &c. And as to one moiety of the said 12 Acres of Land, with the Appurtenances above now demanded, the same N. saith, that the same J. C. now demandant, Actio non, because he saith, that after the gift and partition aforesaid, in the Declaration aforesaid, above specified made, the same A. was seised of the said moiety of the said 12 Acres of Land, with the Appurtenances in her Demesne, as of fee and right, by form of the gift aforesaid, &c.

Declarés upon a devise in tayl, by the Custom of Lands within an ancient City, See Books Entries, fol. 143: a title Custom 2.

M. t. J. Rot. 12. Formdon in discendre of 1. Mes. &c. and saith, that the vill of L. is, & a tempore, &c. was an ancient vill, &c.

Note, that in the same H. terme 17. Ja. afterwards the Attorney of the Tenant in this Formdon, came into the Court, and confessed the Action, before judgment given, Gayer Secondary to Brownlow, chief prothon, said to one of the Cryers of the Court, that he should make Proclamation, to wit, O yes, and to say as followeth, If any man can ought say, why W. Kent the younger, should not have judgment and Seisin of 1. Mes. with the Appurtenances in the Parish of S. M. in the City of Lincoln, which he hath recovered by the Kings Writ of Formdon in discendre, against W. Kent the Elder, let him

come forth and he shall be heard, or for ever hereafter hold his peace. And that none came, and the Court of course gave day to the said persons here, until Monday before the ending of the Terme, to shew cause, &c. And then the demandant shall have his judgment, as it appeares afterwards, without any motion, or contradiction.

Formdon in discendre.

And the same A. being so thereof seised, leised a certain fine *xx. Pas. pmo Maria*, between one R. B. Plaintiff, by the name, &c. And the same Agnes, by the name, &c. of the moety aforesaid, with the Appurtenances, Sur Conulans de droit Come Ceo que ad de Son done, with general warranty, And for that remise, quit claim warranty, fine and conceit, the same R. granted to the same A. the moety aforesaid, with the Appurtenances amongst other things. And he rendered the same to her in the same Court, to have and to hold to the same A. and her Heirs, of the chief Lords of the fee, by the services which belonged to the said moety for ever, which fine, was ingrossed and proclaimed, according to the Statute of 4. H. 4. with 16 Proclamations pleaded. As by the same fine and Proclamations aforesaid, in the same Court of the King, now of the Common Bench here, to wit, at Westminster aforesaid, upon Record remaining, it more manifestly appeareth which said fine, in form aforesaid leysed, was had, and leysed to the use of the same A. and her Heirs And that the Pleas in Court made at the time, of the fine proclaimed, by pretext whereof, the same A. into the moety of the said 12 Acres of Land with the Appurtenances now demanded, entered, and was thereof seised in her Demesne as of fee. And being so thereof seised, the same A. afterwards at E. aforesaid died, of such her Estate thereof seised after whose death, the said moety, with the Appurtenances, descended to the same J. C. Father of the same J. C. now the Demandant, as to the Son and Heir of the same A. by which the same J. C. the Father into the moety aforesaid, with the Appurtenances entered, and was thereof seised in his Demesne, as of fee. And being so thereof seised, the same J. C. of the same moety, with the Appurtenances infeofed, the same N. to have and to hold to the same N. and his Heirs for ever, by reason of which feoffment, the same N. was, and yet is thereof seised in his Demesne, as of fee: and this, &c. whereupon he prayeth judgment, if *Adio*, &c. And as to the other moety of the said 12 Acres of Land above demanded the same N. saith, that *Adio* non, because he saith that the same J. C. the Father of the same J. C. now Demandant, whose Heir he is, after the death of the same A. was seised of the said other moety of the said 12 Acres of Land, with the Appurtenances in his Demesne as of fee and right, by the form of the gift aforesaid, And being so thereof seised, the same J. C. the Father by his certain deed made and sealed, and as the deed of the same J. C. the Father to the same N. and one J. P. the 25. day of March, Anno Dom. 1605. at C. aforesaid delivered which the same N. with the Seal of the same J. C. the Father sealed here in Court, bringeth, gave and granted to the same J. P. and N. the said other moety of the said 12 Acres of Land, with the Appurtenances, to have and to hold to the same J. P. and N. in form following, to wit, to the same J. P. for terme of his life and to the same N. and his Heirs for ever. And the same J. C. by the same Deed, bound himself and his Heirs, to warrant the said other moety with the Appurtenances to the same J. P. and N. and the Heires of the said N. against the same J. C. the Father and his Heirs for ever.

General
Warranty
given for
one moety
of the
Lands in
demand.

By force of which said Gift and Grant, the same J. P. and N. were seised of the said other moety of the said twelve Acres of Land, with the Appurtenances, to wit, the same J. P. in his Demesne, as of fee for terme of his life.

And

And the same N. in his Demeasne, as of fee, And the same I. P. and N. bring so therof seised, the same J. P. afterwards at C. aforesaid, died, and the same N. survived him, and kept himself within, in the same other moiety, of the same 12 acres of Land with the Appurtenances, and was, and yet is therof, solely seised in his Demeasne, as of fee by the right of accretion, &c.

Assess.

And the same N. further saith that sufficient descended to the said I. C. now the Demandant, from the said I. C. the Father, by hereditary descent in fee simple, to the value of the said other moiety, of the said 12 acres of Land, with the Appurtenances to wit, at F. in the County of S. And this, &c. whereupon he prayeth judgment, if the same I. C. now the Demandant against the said Deed of the said I. C. his Father, which containeth in it the Warranty aforesaid Actionem, &c. of the said other moiety of the same twelve acres of Land, with the appurtenances against him, ought to have, &c.

And the same I. C. as to the said first Plea of the said N. as to the one moiety of the said 12 acres of Land, with the appurtenances in the same Plea above pleaded, saith &c. as to the said moiety, against the said N. ought not to be barred, because it is not comprised, &c. prayeth judgment and Dismissal &c.

And as to the said second Plea of the same N. as to the said other moiety of the said 12 acres of Land, with the appurtenances in the same Plea above pleaded, the same I. C. saith that he ought not to be barred because he saith that nothing descended to the same I. C. now the Demandant from the said I. C. his Father by hereditary descent in fee simple, in manner and form, as the said N. hath above alleaged. And this he prayeth, that it be inquired by the Countrey, and the said N. likewise, and issue upon the compromise.

H. 18. Ia. Rot. 9. amongst the Pleas of Land, Brownlow elsewhere, as it appeareth in E. 18. Ia. Rot. 75. it is thus contained elsewhere as it appeareth in T. 17. Ia. Rot. 31. it is thus contained, Lincoln, ff. W. T. by A. O. his Attorney demandeth against T. S. one Parcel, one Rood of Land, and half an acre of Pasture with the appurtenances in B. which I. T. great Grandfather of the same B. gave to the said I. T. his Son, and to the Heirs males of his body issuing. And which after the death of the said I. T. the Son to the said W. Son of John the Cozen, and Heir of the said I. T. the Son ought to descend, by the form of the said gift. And whereupon he saith that the said I. T. the great Grandfather, was seised of the Tenements aforesaid, with the appurtenances in his Demeasne, as of fee And so bring thereof seised, those Tenements, with the appurtenances held of E. late Lord of C. as of the Mannor of B. with the appurtenances in the County aforesaid, in free Socage, to wit, by scalty only for all Services.

Count in formdon in descender, by Cosen and Heir of the Donee in Spec. tale.

Note, where there is Grandfather, Father and Son, in a formdon brought by the Son, and the Father dies, there he shall claim, as Cosen and Heir of the Grandfather, viz. &c. but if the Father survive the Grandfather, then he shall claim, as Son and Heir, &c.

Note, that he shall not say Son and Heir of I. Son of I. for that because he had no Seisin of the Land.

Count that the Donor was seised, and held the Lands in Socage Tenure, and devised them in Spec. tale.

Formdon in discendre.

Devise in
s^hec. rayle.

Donee in
rayle enters
and takes
the esplees.
Droit de-
scends.

And being so thereof seised the 12. day of Novemb. An. Eliz. 2. at B. aforesaid, made his Testament and last Will in writing, And by the same Will gave and bequeathed the Tenements aforesaid, with the Appurtenances amongst other things, to the same J. T. his Son, and to the Heires males, of his body issuing. And afterwards the said J. T. the great Grandfather at B. aforesaid, died of the Tenements aforesaid, with the Appurtenances in form aforesaid seised, after whose death the said J. T. the Son, into the Tenements aforesaid, with the Appurtenances, by vertue of the said gift and Legacy entred, and was thereof seised in his Demeasne, as of fee and right, by the form, &c. in the time of peace, in the time of the Lady Elizabeth, late Queen of England, taking thereof the profits, to the value &c.

As Cosen. And such deeds expressed in the Court, and not in the Writ. Note, that they ought not to be shewn, before the Testament.

And from the same J. T. the Son descendeth the right, by the form, &c. to the same W. who now demandeth as Cosen, and Heir of the said J. T. the Son, to wit, to the Son of J. D. Son of J. D. the Son. And which, after the death, &c. And thereupon bringeth Suit, &c.

The Tenant
voucheth J.
to war-
ranty, sum-
moned in
the County
aforesaid.

And the same T. by W. S. his Attorney commeth and defendeth his right, when, &c. And voucheth thereof, to warrant R. S. summoned in the County aforesaid, that he be here in Cro. Aiar. by the Ayd of the Court, &c. the same day is given to the parties aforesaid here &c. At which day here came as well the said W. as the same T. by their Attorneys aforesaid, And the same R. cast himself an esseyne de malo veniendo, against the said W. And had thereof day by his Essoyne here, until this day, to wit, and x. v. Pas.

Essoyne
callt by the
Vouchee.

And now here at this day, to wit, the said xv. Pas came as well the same W. as the said T. by their Attorneys aforesaid. And the same R. G. summoned, &c. by W. S. his Attorney likewise came, and freely the Tenements aforesaid, with the Appurtenances to the same T. warranteth, &c. And hereupon the same W. demandeth against the same R. Tenant, by his own Warranty the Tenements aforesaid, with the Appurtenances in form aforesaid, &c.

Demandant
Tenant, and
Vouchee,
appear and
enter into
Warranty.
Count a-
gainst the
Vouchee.

And whereupon he saith, that the same J. T. the great Grandfather, was seised of the Tenements aforesaid, with the Appurtenances in his Demeasne, as of fee. And Counts as before. And R. O. voucheth W. I. in the County aforesaid, and Summons awarded returnable, Oct. Mich. At which day, the same W. I. was assigned, and was adjourned until 8. Hill. At which day, W. I. appears, and enters into warranty. And the demandant declares against him as before. And thereof brings suit &c. And the same W. I. Tenant by his Warranty defends his right, when, &c. And further voucheth thereof, to warrant A. I. summoned in the County aforesaid.

Ro. Hicham.

And the same W. T. saith, that the same W. J. ought not to be admitted to vouch to Warranty because he saith that neither the said A. whom &c. nor any of his Predecessors whose Heir he is, at any time had any thing in the Tenements aforesaid, with the appurtenances in Reversion as in Demesne nor in service after the same gift, and before the day of purchasing the Original Writ of the same W. T. to wit, the 4th. day of Feb. Anno Regis 15. So that the same W. J. or any of his Ancestors thereof could in- feoffe. And this he prayeth that it be inquired by the Coun- try and the same W. J. Tenant by his Warranty likewise. Therefore the Sheriff is commanded, that he cause to come here in Cro. Trin. xij. &c. At which day the Jury between the same parties, in the same Plea, was respited thereof between them here until in Cro. Aiap. then next follow- ing, unless the Justices of the King assigned to take Assizes in the County aforesaid, by form of the Statute &c. upon Munday the 9th. day of July last past. at the Castle of Lincoln in the County aforesaid had first come. And now here at this day, to wit, the said Cro. Aiap. came as well the said W. T. as the said W. I. Tenant by his Warranty, by their Attorneys aforesaid. And hereupon the same W. T. (nothing by the said Justices of Assizes being therein done) relinquisheth his Counterplea aforesaid by him to the Vouches aforesaid pleaded, saith that he cannot gain- say, but that the said W. I. Tenant, by his Warranty, ought to be admitted to vouch &c. Therefore let the same W. J. Tenant, by his Warranty, have the said A. I. here from Easter day in 15. dayes, and summon her in the Coun- ty aforesaid, by the aid of the Court &c. The same day is given to the Parties aforesaid here &c.

Henden and Bowtree: T. and I. come by their Attor- neys J. Croyn the which is adjourned until 8. M. 10. Ja. at which day the said T. and I. come by their Attorneys, and J. by S. his Attorney cometh; and enters into War- ranty. And T. declares against the same Jackson, who voucheth to war- ranty R. O. whereof Summons re. O. Hill. 20. Jac. At which day the same R. O. calls an Croyn which is adjourned until Cro. Trin. 27. Jac. At which day the same R. O. enters into Warranty; and T. declares against him: and the same R. O. defends his right and prayeth imparlance until 8. Mich. And further imparlance until 8. H. 21. 1a. At which day here came as well the same W. T. as the same R. O. Tenant by his Warranty, by their Attorneys aforesaid.

And hereupon the same W. prayeth, that the same R. O. Tenant, by his Warranty may answer to his said command, &c. And the same R. O. Te- nant by his warranty defends his right when &c. and nothing in bar of the action of the said W. T. aforesaid saith, whereby the same W. remaineth a- gainst the said R. O. Tenant by his warranty thereof without defence. There- fore it is considered, that the said W. T. recover his Heir against the said T. of the tenements aforesaid, with the appurtenances; and that the same T. Recovery have of the Land of the said Robert, to the value &c. And that the said R. in value, have further of the Land of the said A. to the value &c. and that the said A. have further of the Land of the said Richard, to the value, &c.

Counterplea of the Vou- cher; and Issue thereup- on.

P. 38. H. 8. Rot. 335. the Voucher waved by consent of the Parties.

A. Ni. Pri. is at a day awarded in Court, the De- mandant and Tenant by Warranty came; the Deman- dant wavereth the Counter- plea, and Voucher granted; and the Vouches summoned.

See the New Book of En- tries, Fol. 687. Title, Vou- cher, 10.

P. 20. H. 8. Rot. 540. Whereupon the same T. re- linquisheth his Counter- plea, and well granteth to the said E. W. their Vouches, &c. Therefore it is con- sidered &c. to warrant to the said E. and R. the moyety, &c.

Henden and Bawtry.

Formdon in Discendre.

And the same Rich. in mercy &c. the Writ of Seisin was awarded returnable here, Menle Pas. Another Entry of this Formdon, was in Hill, 21. J. c. Rot. 66. Brownlow.

Formdon in Discendre, brought by the Sonne and Heir of a Copercener, as Cozen and Heir of the Son, and Heir of the other Copercener, for a moyety of Lands in rayl upon an *in simul tennit*.

See Book of Entries, Fol. 336. Title, *Formdon in Discendre*, 4. 5. *Vide Fitz. Na. br. fol. 216. A. and B.*

Count of the Donee.

H 24. Eliz. Rot. 549. ff. A. C. Cent. by T. D. h's Attozney, demandeth against Tho. R. the moiety of one Mess. eighty Acres of Land &c. with the appurtenances in S. which together with another moiety of the same Messuages Lands, Meadows, and Pastures, with the appurtenances in the same Mill, J. F. Esq. and W. J. Cent. gave to R. W. Cent. for the life of the said R. and which the same J. and W. afterwards granted to E. F. Cent. N. W. T. W. the younger, T. W. Clerk, J. L. C. H. J. M. and Marg. W. and the Heirs issuing from the same J. M. and Marg. and which after the deaths of the same R. E. N. T. W. the younger, T. W. Clerk, J. L. C. H. J. M. and Marg. and C. one of the Daughters and Coheirs of the same J. M. and Marg. and O. Son and Heir of the same C. which the same, and the other moiety, together with the same A. holds to the same A. Son and Heir of D. another of the Coheirs of the same J. M. and Marg. ought to discend, by form of the gift aforesaid &c.

And whereupon he saith that the same J. F. and W. H. gave the whole tenements aforesaid, with the appurtenances to the same R. W. for the term of the life of the same R. By which Gift the same R. was seised thereof in his Demeasne, as of Fee, for term of his life, the Reversion thereof to the same J. F. and W. H. and their Heirs belonging; which said Reversion the same J. F. and W. H. afterwards, to wit, the 10. day of July, Anno H. 7. 17. granted to the same E. M. T. W. the younger, T. W. Clerk, J. L. C. H. J. M. and Marg. W. and the Heirs between the same J. M. and M. coming; unto which said grant the same R. W. 19. day of July, An. H. 7. 17. at S. aforesaid. himself agreed, and attorned.

Attornment to the Tenant for life, to the Grant.

Note that 12. Eliz. Dyer. 191. Pl. 64. saith, that seisin ought not to be given in this Writ for fifty years, according to the Statute of 32. H. 8. but there the Title of the Demandant is the gift, and not the Seisin, *ibid fol. 278. Pl. 2. cest.* Formdon is without the Statute of Limitations, *ibid fol. 315. Pl. ibid accord.*

By vertue of which said Grant and Attornment, the same E. M. T. W. the younger, T. W. Clerk, J. L. C. H. J. M. and Marg. were seised of the Reversion of the Tenements aforesaid, with the appurtenances, to wit, the same E. M. T. W. the younger T. W. Clerk, J. L. and C. H. in their Demeasne, as of frank Tenement, for term of their lives.

And the same I. W. and M. in their Demeasne, as of Fee-tayl, by form of the said Grant, in the time of peace, in the time of H. late King of England the 8. taking thereof the profits, to the value &c.

And after the death &c. of the same R. E. T. T. J. L. and C. and the same I. M. and M. the whole Tenements descend to the said C. and D. as Daughters and Coheirs of the same I. M. and M. by the form &c. to the same A. who now demandeth as Son and Heir of the same D. &c.

And

And from the same C. descendeth the right of the other moety of the whole Tenements aforesaid, with the appurtenances to one G. as Son and Heir of the same C. which said G. and A. the whole tenements aforesaid hold together.

And of the same G. for that he died without Heir of his Body, descendeth the right of the same moety, with the appurtenances, to the same G. out of the whole tenements aforesaid happening now against the said T. R. demanded, to the same A. who now demandeth as Cozen and Heir of the same G. to wit, Son and Heir of the same D. Sister and Heir of the same E. one of the Daughters and Heirs of the said I. M. and M. between the same I. M. and M. coming: and thereof byingeth Saft, &c.

H^{33.} Eliz. Rot. 460. Devon. ff. Formdon by Iohan. T. against E. B. wherein the Parties are at issue, alias, Vefac. retognable, &c. xij. &c. continued until Crin. Martini, &c. At which day here came as well the same I. as the said E. by their Attorneys aforesaid.

And hereupon the same E. saith, that after the last continuance of the same Plea; to wit, after the said Crin. lce. Trin. until which day the same Pleint was last continued here until this day; to wit, in Crin. sci. Martini. And before the same Crin. Martini, to wit the 13. Day of October last past the same I. at B. aforesaid took to Husband one W. H. which said W. is yet alive, and in full life; to wit, at B. aforesaid; and this he is ready to verifie: whereupon the prayeth judgment, for that the same I. is Covert de Baron of the Writ, &c. Benlowes with the Tenant.

Abatement of the Writ after the last continuance in Formdon, the Demandant being a *Feme sole* marries.

The like T. 3. E. 6. Rot. 452. Pleaded by Tenant, by receiv in Doner.

P^{41.} Eliz. Rot. 95. s. Brownlow, Elsewhere; as it appeareth Tr. 40. Eliz. Rot. 68. elsewhere; as it appeareth P. 39. Eliz. Rot. 13. amongst the Pleas of Land, it is thus contained:

Hunt. ff. W. B. by C. C. his Attorney, demandeth against H. W. one Messuage, twenty acres of Land, and two acres of Pasture, with the appurtenances in great C. which W. B. gave to R. B. and the heirs of his body issuing: and which after the death of the same R. to the same W. Son and Heir of the said R. ought to descend by form of the said gift: And whereupon he saith that the said W. was seized of the tenements aforesaid, with the appurtenances in, is Demeasne, as of Fee: and those tenements, with the appurtenances held of one I. S. as of his Manor of N. in the County aforesaid, in free Socage; to wit, by Fealty only for all services.

And being to thereof seised in the 8. Day of January, Anno Dom. 1550. at great G. aforesaid, made his Testament, and last Will in writing: and by the same Will gave the tenements aforesaid, with the appurtenances, to the same R. and the Heirs of his body issuing, in form as aforesaid.

Formdon in Discendre, brought by the Son and Heir in rayl.

Count upon a Devise in rayl general.

Tenure in Socage.

Devise of the Lands in rayl, to the Father of the Demandant.

Formdon in Discendre.

And afterwards the same W. at great C. aforesaid died of such his Estate thereof seised: by which gift the same R. after the death of the same W. in-

Devisor died seised.

Tenant in tayl enters, and was seised as in Fee.

P. 32 .Eliz. Rot. 8. Receit of the same upon the *Perit cape*, upon the default of her husband, *Sur cui in vita*, and counts and voucheth over, and the Vouches enter into Warranty, and plead that the Tenements are not contained in the Fine.

Tenant pleads no gift at all.

Vefac. continued.

P. Knight &c. and R. C. one of the Barons &c. Justices of the said Lady the Queen assigned, to take Assizes in the County aforesaid, by term of the Statute &c. came the within named R. B. by his Attorney within contained, and the within written H. W. being solemnly called, came not, but made default, &c.

Tenant makes default at the Assizes.

An Estranger, to wit, Son and Heir of the Tenant, comes at a day into Court, and shewes an Indenture before, between him and his Father the Tenant, that the Son is, and ought to be seised &c. to the use of the Father, for life; the remainder to the Son and his Heir for life; remainder over in tayl, with remainders over &c. And shewes that the Tenant made default by Covin between &c. to deceive him of his Lands &c. and prays to be admitted to defend his right; and he is admitted to defend his right.

The Indenture pleaded.

Tenant seised for life, with remainders over.

to the Tenements aforesaid, with the Appurtenances entered, and was thereof seised in his Demeasne, as of Fee and Right, by the form, &c. in the time of peace, in the time of the Queen, now taking thereof the profits, to the value, &c. And from the same R. descendeth the right by the form, &c. to the same W. who now demandeth as Son and Heir, &c. And which after the death, &c. and thereof bringeth Suit, &c. And the same H. by W. P. his Attorney, cometh and defendeth his right when &c. And saith that the said W. did not give the tenements aforesaid, with the appurtenances, to the same R. B. and the Heirs of his Body living: as the said W. B. the Demandant, by his Writ and Count aforesaid above suppliceth: and of this he putteth himself upon the Country, &c. Therefore Vefac. returnable 8. Mich. At which day here came the parties, &c. And the Sheriff sent not the Writ: therefore as before Vefac. ret. 8. Hill. to recognize in form aforesaid &c. At which day the Jury &c. afterwards the day and place within contained, before J.

And hereupon came here in Court T. W. Son and Heir of the said H. W. in his proper person; and saith that before the day of purchasing of the Original Writ of the same W. the same H. the Father was seised of the tenements aforesaid, with the appurtenances in his Demeasne, as of Fee: and being so thereof seised before the day of purchasing of the said Writ to wit, the last day of April, Ann. Regin. 38. by his certain Indenture between the same H. of the one part, and the same T. of the other part made; which other part with the Seal of the said H. Sealed the same T. here in Court sheweth forth the date, whereof is the same day and year, for and in consideration of the natural love and affection, which he bare towards the same T. his Son and Heir apparent; and the children of the same T.

And for other good considerations, the same H. moving, covenanted, promised, and granted for himself, his Heirs, Executors, and Administrators, to and with the same T. his Heirs Executors, and Assigns by the same Indenture, that the same H. his Heirs and Assigns, and all and every person and persons and their Heirs, which then or afterwards should be seised of any Hereditary Estate of and in the Tenements aforesaid, with the appurtenances, from the time of the Sealing and Delivery of the same Indenture should be seised of the same Tenements with the appurtenances to the use of the said H. for term of his life, without impeachment of any waste: and after the decease of the same H. to the use of the same T. for term of his life,

life, without impeachment of any waste: And after the decease of the same T. to the use of the said H. W. the Elder, Son of the said T. and the Heirs of his Body lawfully begotten.

And for default of such Issue, to the use of the right Heirs of the said H. Father of the said T. for ever.

By virtue of which Indenture, and by force of a certain Act in Parliament of the Lord H. late King of England the 8. at Westm. in the County of Midd. the fourth Day of February, Anno &c. 27. De usibus in possessionem transferend. held, made, and provided the same H. W. the Father was seised of the Tenements aforesaid, with the appurtenances, in his Demesne, as of frank Tenement, for term of his life, the remainder thereof, after the decease of the same H. to T. his Son, for term of his life, the remainder thereof after the decease of the same T. to the same H. W. and the Heirs of his Body lawfully begotten, the remainder thereof further, as is above limited in form aforesaid belonging.

And the same T. further saith, that the same W. B. impleaded the same H. the Father of the Tenements aforesaid, with the appurtenances. And the same H. made default by fraud and collusion between the same W. B. and the same H. the Father, with an intention the same T. and the same H. Son of the same T. of the Tenements aforesaid, with the appurtenances wholly to deceive and defraud; and this he is ready to verifie: Whereupon for that the same T. came into the Court here before the same Judgment, of the Tenements aforesaid with the appurtenances, against the same H. was given ready to answer the same W. B. therein. And to defend his right thereof prayeth, that he for the default of the same H. and by the fraud and collusion aforesaid, in form aforesaid had, may not lose his right of the Tenements aforesaid, with the appurtenances; but that he unto the defence of his right unto the tenements aforesaid, may be admitted, &c. and he is admitted &c.

Covin alleadged between the Demandant and Tenant.

And hereupon the same T. prayeth that the said W. may declare against him, &c. Whereupon the same W. by his Attorney, demandeth against the same T. the Tenements aforesaid, with the appurtenances which W. B. gave unto R. B. and the Heirs of his Body issuing: and which after the death of the same R. to the same W. Son and Heir of the same R. ought to descend by form of the said gift, &c. And whereupon he saith that the said W. was seised of the tenements aforesaid, with the appurtenances in his Demesne as of Fee: and those tenements, with the appurtenances held of one X. W. as of his Manor of S. in the County of D. in free Socage, to wit by fealty onely for all services: And being so thereof seised the 8th. day of January, An. Dom. 1550. at great G. aforesaid. made his testament and last Will in Writing: and by the same Will gave the tenements aforesaid with the appurtenances to the same R. and the Heirs of his body issuing, in form as aforesaid: and afterwards the same W. at great G. aforesaid died of such his Estate thereof seised.

He in remainder for life, is received to defend his right.

Count against the Tenant by receiv.

Formdon in Discendre.

By which Gift, the same R. after the death of the said W. into the Tenements aforesaid, with the appurtenances entred, and was thereof seised in his Demerline, as of Fee and Right, by the form &c. in the time of peace in the time of the Lady the Queen, now taking thereof the profits, to the value &c. And from the same R. descendeth the Right, by the form &c. to the same W. who now demandeth as Son and Heir &c. and which after the death &c. and thereof bringeth Suit &c.

And the same T. in his proper person descendeth his Right when &c. and saith that the said W. gave not the Tenements aforesaid, with the appurtenances to the same R. B. and the Heirs of his Body issuing; as the said W. B. the Demandant, by his Writ and Declaration aforesaid, above supposed. And of this he putteth himself upon the Countrey, &c. Therefore Ve fac. xij. &c. returnable, Cro. Aiar.

Tenant, by receipt, pleads no gift at a l.

Ve fac awarded.

Tenant, by receipt, findes Surety to answer the Demandant for the mean profits. Note that he that is received, shall not be bound, but an Estranger, &c. *Br. title receipt*, 11. accord. 22. H. 6. fo. 52. contra.

And hereupon one J. S. of &c. and W. M. of &c. came here in Court in their proper persons, and undertook for the same T. to pay and satisfy the same W. B. the Demandant, of and for the Issues and Profits of the Tenements aforesaid, with the appurtenances; in the mean time, to wit, from the time of the Issue by the Countrey joyned, until the Day of Judgment between the same Parties, if it happen the same Issue to be found against the said T. or the same T. at any day of the said Plea, to make default according to the form of the Statute in this Case late made and provided, &c.

Ni. pri.

See the New Book of Entries fol. 982. fol. 581. Pl. 16. receipt.

Note that in M. 19. Ja. in Dower between B. and C. which was entred P. 19. Ja. Rot. Carter was Tenant for life, and made default at the Assizes, and at a day in Court; and before the *Petit Cape* awarded, one other Carter, as to the remainder in Fee, shewes a Deed which testifies that he had the reversion in Fee, of the Lands, &c. and prays to be received; and he was received, and found Sureties for the mean profits, because he was was, M. 19. Jac. Rot. 846.

At which said morrow of All-Soules, the Jury between the said W. B. and the same T. in the same Plea, was respited here, until xv. Pas. Unless the Justices, &c. in the County aforesaid had first come. And now here at this Day came the said W. by his Attorney aforesaid. And the same Justices of Assizes before whom, &c. sent here their Record in these words:

Afterwards the day and place within contained before J. P. Chief Justice, &c. and E. W. unto the same J. P. and R. C. one of the Barons, &c. Justices of the said Lady the Queen assigned, to take Assizes in the County of H. by form of the Statute &c. hac Vice, being associated, the presence of the said R. C. not expected, by virtue of the Writ of the said Lady the Queen, *De finon omnes*, came the within named W. B.; and the within written T. W. although solemnly called, came not, but made default, &c.

not party to the Record, but an Estranger; but no bayl

T. 12. H. 7. Rot. 99. feme received in dower at the return of the *Petit Cape*.

He who hath the remainder in tail, by his Guardians, being within age, comes at a

And hereupon came here into Court H. W. eldest Son of the said T. W. who is within age, by W. P. and M. S. who were admitted by the Court here to prosecute for the same H. W. as the next Friends of the H. W. And saith, that before the Day of purchasing of the Original Writ of the same W. the same H. W. Grandfather of the said H.

H. was seised of the Tenements aforesaid, with the appurtenances in his Demeasne, as of Fee: and being so there- of seised before the day of purchasing the same Writ; to wit, the last day of April Anno 38. at great C. aforesaid, by his certain Indenture, between the said H. W. the Grand-Father, of the one part, and one T. W. Sonne and Heir of the said H. the Grand-Father, the Father of the said H. the younger, of the other part made: which other part, with the Seal of the said H. the Grand-Father, the same H. W. the younger here in Court bringeth the Date, wherof is the same Day and Year, for, and in consideration of the natural love and affection which he bare towards the same T. his Son apparent, and the Children of the same T. and for other good considerations, the same H. the Grand-Father moving, covenanting, promised, and granted for himself, his Heirs, Executors, and Administrators, to, and with the same T. his Heirs, Executors, and Administrators, by the same Indenture, that the same H. the Grand-Father his Heirs or Assigns, which then or afterwards should be seised of any Hereditary Estate, of, and in the Tenements aforesaid, with the appurtenances, at the time of the Sealing and Delivry of the said Indenture, should be seised of the same Tenements, with the Appurtenances, to the use of the said H. the Grand-father for term of his life, without impeachment of any waste. And after the decease of the said H. the Grand-Father, to the use of the same T. for term of his life. And after the decease of the same T. to the use of the said H. W. the elder Son of the same T. and to the Heirs of the Body of the said H. Son of T. begotten.

and she voucheth Judgment against the husband and wife, and over in value against the Vouchee.

And for default of such Issue as before. By vertue of which said Indenture, and by force of a certain Act in the Parliament of the Lord Hen. late King of England the 8. at Westm. in the County of Midd. 4. Febr. Anno 27. De nobis in possessionem transferend. held, made, and provided, the same H. W. the Father was seised of the Tenements aforesaid, with the appurtenances in his Demeasne, as of frank Tenement for term of his life, the remainder thereof, after the decease of the said H. the Father, to the same T. his Son, for term of his life; the remainder thereof after his decease to the same H. W. the Son of the said T. and the Heirs of his B. by lawfully begotten; the remainder thereof further, as is above limited, in form aforesaid belonging.

And the same H. the younger further saith, that the same W. B. impleaded the same T. the Father of the said H. the younger, of the Tenements aforesaid, with the appurtenances; and the same T. made default by fraud and collusion between the same W. and the same T. the Father, with an intention the same H. the Son of the same T. of the Tenements aforesaid, with the appurtenances, wholly to deceive and defraud; and this he is ready to verify.

day into the Court, and pleads the Indenture aforesaid; and for default of his Father, prayes to be admitted to defend his right, &c.

T. 9. and 10. Eliz. Rot. 1749. Verb. T. against M. receipt of the Feme for default of her Husband in *Formdon in Descendre*, and is admitted to vouch; the Vouchee summoned, enters into Warranty; Judgment against the husband and wife, with Records, to the value, &c. M. 32. and 33. Eliz. Rot. 98. M. 35. H. 8. Rot. 158. Receipt after Receit. See the like 5. H. 5. Fol. 13. Pl. 32.

M. 20. F. 4. Rot. 565. *Copley* in a Writ of Right, brought against husband and wife, the husband makes default; And the Feme by her Attorney assigned by Writ, brought out of the Court of Chancery is admitted to defend her Right;

*Covin al-
ledged.*

Formdon in Discendre.

Covin alleaged.

T. 28. Eliz. Rot. 47. *Cant.*
C. against M. receit in a
Writ of Entry in the like
Case, for default of the Hus-
band.

Receit of him in remain-
der in trayl, after receipt and
default of him in remain-
der.

Count against him by re-
ceit.

T. 5. E. 3. Fol. 147. Pl.
11. Infant prays to be recei-
ved to defend his right, and
he finds Sureties, who are
entred upon Record, not-
withstanding he was an In-
fant, because the Statute is
general.

H. 35. H. 6. Rot. 402. An
Estranger prayeth to be re-
ceived.

Tenant by receipt vouch-
eth to Warranty in the same
County. Note that no Surety
for the mean profits is to be
found by the two Tenants
by receipt.

Whereupon for that the same H. the Son, came here
into Court before Judgment of the Tenements aforesaid,
with the appurtenances, against the same T. was given rea-
dy to answer the same W. B. and to defend his right there-
in prayeth, that he for the default of the said H. the Grand-
Father of the said T. and Father of the said H. the yun-
ger, and by the fraud and collusion. in form aforesaid had,
that he may not lose his right of and in the same Ten-
ements but that he may be admitted to defend his right of
the Tenements aforesaid, and is admitted, &c.

ED. HERON.

And upon this the same H. prayeth, that the same W.
may declare against him, &c. Whereupon the same W. by
his Attorney aforesaid, demandeth against the same H. the
Tenements aforesaid with the Appurtenances which W.
B. gave to R. B. and the Heirs of his Body lawfully begot-
ten: And which after the decease of the said Robert, to
to the same W. Son and Heir of the said R. ought to de-
scend by form of the Gift aforesaid, &c. And wherupon he
saith that the same W. was seised of the Tenements aforesaid,
with the Appurtenances in his Demesne, as of fee.
And the Tenements aforesaid, with the Appurtenances,
held of one X. W. as of his Manor of S. in the County of
D. in free Socage; to wit, by fealty onely for all Servi-
ces. And so being thereof seised the 8. day of January, Anno
Dom. 1550. at great G. aforesaid, made his Testament and last Will in writ-
ting: and by the same Will gave the Tenements aforesaid, with the appur-
tenances, to the said R. and the Heirs of his Body lawfully begotten, in
form aforesaid. And afterwards the same W. at great O. aforesaid, died of
such his Estate thereof seised, by which Gift the same R. after the death of
the said W. into the Tenements aforesaid, with the Appurtenances entred,
and was thereof seised in his Demesne as of fee and right. by the form &c.
in the time of peace, in the time of the Lady Eliz. now taking thereof the pro-
fits, to the value &c. And from the same R. descendeth the right by form,
&c. to the same W. who now demandeth as Son and Heir, &c. And which af-
ter the death, &c. And thereupon bringeth Suit &c. And the same H. in his proper person defendeth his right, when
&c. And voucheth thereof to warrant H. S. summoned in the
County aforesaid &c.

M. 22. and 23. Eliz. Rot. 2137. Essex ff. J. L. by T. S. his Attozney demandeth against H. L. 1. M. 1. one Garden, and two Acres of Land. with the Appurtenances in N. which T. L. gave to J. L. his Son, and the Heirs of his Body begotten. And which after the death of the said J. L. the Son of T. to the same J. Son and Heir of the same J. Son of T. ought to descend by form of the gift, &c.

And whereupon he saith that the same T. gave the Tenements aforesaid with the appurtenances to the same J. his Son, and the Heirs of his Body, to be begotten in form as aforesaid, by which gift, the same J. the Son of the said T. was seized of the Tenements aforesaid, with the appurtenances in his Demesne, as of fee and right, by form &c. in the time of peace, in the time of E. late King of E. the sixth after the Conquest, taking thereof the profits to the value, &c.

And from the same J. descendeth the right by the form &c. to the same I. who now demandeth as Son and Heir, &c. And which, after the death, &c. and thereupon bringeth Suit, &c.

And the same H. by H. L. his Attozney defendeth his right, when &c. and boucheth thereof to warrant C. L. let him be here xv. Pas. and be summoned in the County aforesaid, by apd of the Court, &c.

The same day is given to the parties aforesaid here, &c. Elsewhere, as it appeareth in E. terme, An. Eliz. Regin. 20. Rot. 117. It is thus contained.

Essex ff. H. L. by H. L. his Attozney offered himself the 4th day against the same C. L. of a Plea, that he should be here at this day, to wit, xv. Pas. to warrant to the same H. one Messuage. one Garden, and two acres of Land with the Appurtenances in N. which I. L. in the Court of the Lady the Queen, here claimeth as her right against the same H. by Writ of the said Lady the Queen, de forma donationis in discendre &c.

And whereupon the same H. in the Court of the Queen here called the same C. summoned in the County aforesaid, to warrant him, and he came not, and was summoned, &c. Judgement, that the Lands of the said C. be taken into the hands of the Lady the Queen, to the value, &c.

And whereupon, &c. and day, &c. and he be summoned, that he be here in Oct. Mich. the same day is given as well to the same I. L. who now appeareth by T. S. his Attozney, as to the same H. L. here, &c.

At which day the said Pleint was adjourned, by a Writ of the said Lady Adjourn the Queen, de coi. Adjournamento, here, until Menlem Michis, then next ment. following.

At which day here came as well the said I. as the said H. by their Attozneys aforesaid. And the Sheriff sent not the Writ: Wherefore as bef. 2c, let the same Tenements be taken into the hands of the Lady the Queen. And the same C. as before summoned, that he be herein Octab. Pur. the same day is given to the parties aforesaid here &c.

At which day, here came as well the said I. as the said H. by their said Attozneys, and the Sheriff sent not the Writ: therefore as before let the Tenements aforesaid be taken into the hands of the said Lady the Queen, and the same C. as before summoned, that he be here Tres Trin, the same day is given to the parties aforesaid, here, &c.

T. 26. H. 6. Rot. 503. Receipt by an Attorney, the Will advizo in allowing the Writ no judgement.

P. 38. H. 6. Rot. 411.

Formdon brought by the Son and Heir, in taylor in Remainder.

Count of a gift generally.

The Tenant voucheth in the same County.

Entry of the Summons to warrant for the Tenant, against the Vouchee, for default of the Vouchee.

Grand Cape ad Valence, of the Lands of the Vouchee.

Continuance of the grand Cape.

Formdon in discendre.

Vouchee appeareth by his Attorney.

Grand Cape returned, executed.

The Tenant insists precisely on the default.

The Tenant wavereth Law of the not Summons.

Vouchee maketh default at the day given to perfect his Law.

Judgment for the Demandant to recover Seisin of the Lands in demand.

Judgment and a Writ of Seisin, adjudged upon a default made by the Tenant, at the return of the Writ of the Petir. Cape, in a Writ of *forma donacionis in descender*.

At which day, here came as well the same J. L. as the said H. by their Attorneys aforesaid. And also the same C. by T. L. his Attorney, and the Sheriff now here together the day of the caption, &c.

And that he took into the hands of the said Lady the Queen, the Lands of the said C. to wit, one Barn, and four Acres of Land, with the Appurtenances in S. aforesaid, to the value of the Tenements aforesaid, and that he summoned, &c.

And hereupon the same H. precisely betaketh himself to the said default, which the said C. made here at the said xv. nam Pas. And prayeth Seisin of the Tenements aforesaid, with the Appurtenances for that default, to him to be adjudged, &c.

And the same C. saith, that that default ought not to hurt him in this behalf, because he saith, that he was never summoned by the Law of the Land, to be here at the said xv. Pas. to answer the same H. in the same Plea. And this he is ready to defend against him, and his Suit, as the Court here shall consider: Wherefore it is considered, that the same C. wage thereof his Lawse duodecima mano, Pledges of Law, to wit, J. Deo, and Rich. Roo. And let him come with his Law here, xv. nam. Marrini. And it is said to the said Attorney of the said C. that he then have here the same C. his Client in his proper person, to do his Law aforesaid, if &c.

The same day is given as well to the said J. L. as to the said H. here, &c. before which day, the same Pleint was adjourned by Writ of the said Lady the Queen, of common abjournment from Westminster. here, unto the Castle of Heref. in the County of Heref.

At this day, came as well the said J. L. as H. L. by their Attorneys aforesaid. And the same H. offered himself the fourth day against the same C. of the said Plea, that he should be here this day, to do his Law aforesaid, as the same he above waged. And he being solemnly called came not, but made default. Wherefore it is considered, that the said I. recover his Seisin against the said H. L. of the Tenements aforesaid, with the Appurtenances above, against the same H. demanded. And that the same H. recover his Seisin against the same C. of the Tenements aforesaid, with the Appurtenances in S. aforesaid. And the same C. in mercy, &c.

And hereupon the same I. prayeth a Writ of the said Lady the Queen, to be directed to the Sheriff of the County aforesaid, to cause to be delivered to him full Seisin of the Tenements aforesaid, with the Appurtenances in N. aforesaid, and it is granted to him, returnable here, Oct. Hil. &c.

P. 19. Jac. Rot. 29. amongst the Pleas of Land. Brownlow. E. S. by T. W. his Attorney offered himself the fourth day, against R. W. of a Plea of one M. f. and the moiety of one Rood of Land, with the Appurtenances in H. which the same E. in the Court of the Kings here

here claimeth, as his right against the same R. by Writ of the Lord the King, de forma donationis in le discendre. And had thereof day here until Oct. Martini last past, after that the had at another time here appeared in Court.

At which day the same R. made default, so that then it was commanded the Sheriff, that he take the Tenements aforesaid, with the Appurtenances, into the hands of the Lord the King, &c.

And that he summon by good Summoners, the same R. that he should be here at this day, to wit, H. Menie Pas. to hear thereof his Judgement, &c. And now here at this day came the same E. by his Attorney aforesaid, and the Sheriff now returneth, that he took, &c. And that he summoned, &c. Therefore it is considered, that the same E. recover against the said R. his Seisin, of the Tenements aforesaid, with the Appurtenances by default &c.

And the same R. in mercy, &c. and a Writ of Seisin was awarded, returnable here, Tres Mich. Teste 12. Maij 19. Jac. which was the teste day of the return of Menie Pas. aforesaid, which note.

Brownlow the Prothon. saith, that it is not error in execution in a real action, to omit a terme between the Teste and return of the Writ of Seisin, because it is only delay of the party Demandant; but it is otherwise in personal Actions, and the Seisin at Tres Mich. aforesaid, was returned, executed, &c.

ecution in a real action, to omit a terme between the Teste and return of the Writ of Seisin, because it is only delay of the party Demandant; but it is otherwise in personal Actions, and the Seisin at Tres Mich. aforesaid, was returned, executed, &c.

E. 26. H. 8. Rot. 154. s. Coningebj Ebor. ff. R. C. by I. F. his Attorney offered himself the fourth day, against R. H. of a Plea of four M^l. one hundred and forty Acres of Meadow, and 20. Acres of Pasture, with the Appurtenances in H. in which the same R. C. in the Court of the King, here claimeth as his right, against the same R. H. and A. his Wife, by a Writ of the Lord the King, de forma donationis in discendre, And he came not.

Entry of receipt of him in reversion, at the return of the Petir. Cape, in Formdon in discendre, in the Bench, for the default of the particular Tenant, at the Assizes.

And as well he as the same A. at another time appeared here in Court, and pleaded with the same R. C. and put themselves here upon the Jury of the Countrey, which was respited between the parties abovesaid here, until Cro. Aiar. then last past, unless the Justices assigned, to take the Assises of the said Lord the King in the County aforesaid, by form of the Statute, &c.

The like in Dower, P. 36. Eliz. Rot. 1344. S. against P. M. 27. H. 8. Rot. 157.

Upon Thursday, after the Feast last past, &c. at the Castle of York, in the County aforesaid, had first come, upon which said Thursday, before J. S. Knight, and J. B. Justices of the said Lord the King, assigned to take Assises in the County aforesaid, by form of the Statute aforesaid, at the C. of E. aforesaid, came the same R. C. by his Attorney aforesaid. And the same R. H. and A. being solemnly called, came not.

As the same Justices of Assises, before whom, &c. to the Justices here, at the same Court, Aia. certified, whereby at the same Crin. Aiar. it was commanded the Sheriff, that he should take the Tenements aforesaid, with the Appurtenances, into the hands of the King. And that he should summon by good Summoners, the same R. H. and A. that they should be here at this day, to wit, at die Pas. in fifteen dayes, then next following, to hear thereof, their judgment, &c.

And

Formdon in discendre.

And the Sheriff now returneth, that he took, &c. And that he summoned &c. And hereupon the same R. C. prayeth Judgment, and Scisin of the Tenements aforesaid, with the Appurtenances for the default of the said R. H. to him to be adjudged, &c. Whereupon the same A. came here into Court, by W. C. her Attorney, by writ, of the Lord the King, made and directed to the Justices here, the Tenor of which said Writ, follo[n]eth in these wordes.

Receit of an Attorney by a speciall Dedimus to defend the right of his Client.

M. 20. E. 4. Rot. 427. H. against H. Such a receipt by the Feme, by Dedimus, upon the default of the Husband, at the Assizes. And the Feme pleads Ne unque seize qu; Dower.

Henry by the Grace of God, &c. to our Justices of the Bench, greeting, Know ye, That whereas R. C. in our Court before, as by our Writ, de forma donationis in descende, had impleaded R. H. and A. his Wife, of 4. M. 140. Acres of Land, 10. Acres of Meadow, and 20. Acres of Pasture, with the Appurtenances in H. in the same Plea, in such manner it is proceeded therein, that the same R. and A. after they appeared, and

in our Court before you made default, whereby we commanded our Sheriff of York, by our Writ of judgment, that he should take into our hands, the Tenements aforesaid, with the Appurtenances and that he should summon by good Summoners the same R. H. and A. his Wife, that they should be before our Justices, xv. Pas. next to come, to hear thereof the judgment. And the same A. now seareth, that the same R. H. her Husband, by the consent between him and the said R. C. intending to disinherit the same A. of the same Tenements, at the same xv. Pas. intended to make default, as we are informed, which if it should happen to be done, it would manifestly tend to the peril and damage of the disinheriting of the same A. Whereupon, on the behalf of the same A. us beseeching, that whereas the same A. for that she is detained, by reason of an infirmity, that she cannot come to Westminster, at the day aforesaid, to pray admittance to defend her right in this behalf, (if it happen, the same R. H. at that day to make default) we willing graciously to assist her in this behalf, for that we are informed, by faithful Testimony, that the same A. without peril of her life, cannot travel dedimus vobis potestatem, to take an Attorney for the same A. to pray to be admitted, to defend her right, in the Tenements aforesaid, with the Appurtenances, if the same R. H. at that day shall happen to make default, and to gain or lose in the same Pleain; and also to do all, and every thing, which the same A. would do, if she were present.

And therefore we command you, that W. C. whom the same A. before us hath put in her place as her Attorney, to do and receive in the premises, at the said day what our Court shall consider of, in the place of the same A. herunt, ye receive witness our self at Westminster, the first day of April, An. 25. And saith, that the Tenements aforesaid are the right of the same A. whereupon for that the same A. cometh here into the Court, before the said Judgment given, ready to answer the same R. C. and defend her right, And that the default of the same R. H. her Husband, shall not hinder her right, but that she shall be admitted to defend her right therein. And she is admitted, &c. Whereupon, the same R. C. demandeth against the said A. the Tenements aforesaid, with the Appurtenances, which W. M. Vicar of the Church, &c. And Counts in discendre. And which, after the death, &c. and thereof bringeth Suit, &c.

Count against the Tenant, by receipt.

And the same A. defendeth her right when ec. And call-
eth thereof to warrantp W.P. summoned in the Countp
aforesaid, by the aid of the Court ec. And the same R. C.
propeth licence to imparle here until O.A. Trin. and hath
it ec. The same day is given to the same A. here ec. At
which day here cometh as well the said R. C. as the same
A. by their Attorneys aforesaid. And hereupon the same
R.C. well liketh the vouching of the same W. Therefore
let the same A. have the same W. here in Cro. Aiar. And
that he be summoned in the Countp aforesaid by aid of the
Court ec. The same day is given to the Parties afore-
said here ec. The Vouchr appeareth upon Summons:
and the Demandant declares against him; and the
Vouchr voucheth over ec.

A Tenant by receipt vouch-
eth J. to be summoned in
the Countp aforesaid.

Granter of Voucher after
general imparlance.

H 18. Jac. Rot. 71. Gullston, Suffex fl. R. D. Cent. by
J. P. his Attorney demandeth against E. P. Clerk,
and N.M. Cent. two Messuages, sixty acres of land,
sixty acres of Pasture, one hundred Acres of Wood, and
one hundred Acres of Furze and Heath, with the Appur-
tenances in H. which R.F. gave to J.F. his Son, and the
Heirs Males of his Body begotten: so that if the same J.
should dye without Heir Male of his Body begotten, the
Tenements aforesaid, with the Appurtenances to the said
R.D. and his Heirs, should remain; and which after the
death of the same J. to the same R. D. ought to re-
main by form of the said Gift; for that the same J. died
without Heir Male of his Body begotten: and whereupon
he saith, that the said R. F. gave the Tenements aforesaid,
with the Appurtenances, to the said J. F. and his Heires
Males of his Body begotten: So that if the same J. should
dye without Heir Male of his Body begotten, the Ten-
ements aforesaid, with the Appurtenances, should remain
to the said R.D. and his Heirs: By which Gift the same
J. was seised of the Tenements aforesaid with the Appur-
tenances in his Demesne, as of Fee and Right by the
form ec. in the time of peace, in the time of the King now
taking thereof the profits, to the value ec. And from the
same J. for that he died without Heir Male of his Body be-
gotten the Right remained by form ec. to the same Rich.
who now demandeth: and which after the death ec. for
that ec. And thereof bringeth Suit ec.

Counter-plea.

P. 31. H. 8. Rot. 423.
Counter-plea Devoucher in
a Formdon, for that he
brought another Writ there-
of against J.S.

M. 14. H. 6. Rot. 104.
Count Plea Devoucher in
Formdon, founded upon the
Statute of 1.R.2. Demurrer,
21. E. 4. Fol. 20. See
Counter-Plea Devoucher
challenged, for that it was
not said, *Anie diem impe-
trationis brevis originalis*, Br.
45. 41. E. 3. 15. An
Essoyn callt at the return of
the *Vo fac.* 5. Eliz. Dier.
223. Pl. 27. 15. Eliz. fol.
32. Pl. 26. accord with
21. Ed. 4. fol. 21. Note,
the Defendants Attorney
adjourned, by the advice of
his Council. Such Essoyn
unto Cro. Aiar. and sues
a *Hec.* against the Jurors,
returnable the same Return,

by the Book of 21. E. 4. 21. For it is no other continuance amongst the Jurors; and if
nor, the Processe amongst them is discontinued.

And the same E. and N. by E. N. their Attorney, defend their right
when ec. And vouch thereof to warrantp A. A. Clg; summoned in the
Countp aforesaid. &c.

And the same Richard saith that the same E. and N. to such Voucher to warrant-
p, ought not to be admitted, because he saith that neither the said A. who ec.
nor any of his Ancestors, whose Heir he is at any time, had any thing in the
Tenements aforesaid with the appurtenances in their Demesne, in rever-
sion nor in service, after the said gift, and before the day of purchasing of the

PPP

Dr.

Formdon in Discendre.

Original Writ of the same R. to wit, the 13. day of May, Anno Regis ac. 18. So that the same E. and N. or any of their Ancestors thereof could in coffe. And this he prayeth that it may be inquired by the Countrey; and the same E. and N. likewise. Wherefore the Sheriff is commanded that he cause to come here Cro. Trin. 12. ac. and at Crin. Trin. Henshaw Attorneys for the tenants casts this Essoyn in the Essoyn Rolls.

Suffex, H.E.P. Clerk and N.M. Gent. against R.D. Gent. in a Plea of Land by A.D. ff. Cro. Trin. An. 19. Jac. At which day the Jury between the Parties aforesaid in the same Plea, were respited between them here until this day, to wit, in Cro. Aiar. then next following: And now here at this day came as well the same R. as the same E. and N. by their Attorneys aforesaid. And hereupon the same R. (the said Jury for default of Jurors, by the Court here at the Crin. Aiar. being not taken) relinquisheth his Counter-plea aforesaid by him above to the same Voucher pleaded, saith that he cannot gainsay, but that the same E. and N. ought to be admitted to vouch: theretoze the same E. and N. may have the same A. here at the same xv. nam. Pas. to warrant in form aforesaid, by aid of the Court &c. The same day is given to the parties abovesaid here &c. At which day this Essoyn ensuing was cast.

Vocare.

Suffex, H.A.A. Esq. whom E.P. Clark. and N.M. Gent. vouch to warrant against R.D. in a Plea of Land: the same day is given to the same E. and N. here &c. xv. nam. Pas. At which day here came as well the same R. by the same J.P. his Attorney; as the said E. and N. by the said E.H. their Attorney: And the same A. caused himself to be essoined, De malo veniendo, against the same R. in the same Plea; and had thereof day by his essoin here, until 8. Mich. then next following: and the same day was then given as well to the same R. as to the same E. and N. here &c. At which day here came as well the same R. by the said J.P. his Attorney as the same A. by J.S. his Attorney; and the same E.H. Attorney of the same E. and N. caused himself to be essoined, De malo veniendo against the same R. in the same Plea: and the same E. and N. had day therein by that Essoyn here until this day, to wit, in O.S. Hill. then next following: and the same day was given as well to the said R. as to the said A. here &c. And now here at this day at the said O.S. Hill. came as well the said R. by the same J.P. his Attorney, as the same E. and N. by the same E.H. his Attorney: and the same A. by the same J.S. his Attorney likewise came; and freely the tenements aforesaid, with the appurtenances to the same E. and N. warranteth &c. And hereupon the Demandant counts against the same A.A. Voucher who voucheth T.H. Gent. summoned in the County aforesaid by the aid of the Court &c. And the same R. as to one Mess. 60. acres of Land 60. acres of Pasture and 80. acres of wood, of the tenements aforesaid, with the appurtenances in the demand aforesaid, above specified parcel saith that the same A. Tenant by his Warranty, ought not to be admitted to vouch, because he saith that by a certain Act of Parl. of the Lord Rich. late K. of England the 2d. after the Conquest, An. ac. 11. at West, in the County of Midd. held made and provided amongst other things, it was enacted by authority of the same 2d. Parl. (for that complaints were made to the said Lord the King, that many persons of this Realm of England, as well great as small, having right and true title as well to Lands, Tenements, and Rents as other personal actions, were unjustly delayed of their right and actions, for that the Occupiers or Defendants maintained and sustained within their walls do commonly make Gifts and Fecumments of their Lands and Tenements, which are in debate, and of other their Goods and Chattels, to Lords, and other Persons of the Kingdom, against whom the prosecutors for the same cannot, or at least dare not, make their their Suits.

Special Counter-plea to the Voucher, for part by the Statute of 2. Rich. 2.

And

And also on the other part complaints were made to the said Lord the King, that very often many persons disseised others of their tenements: & presently after that disseisin, made divers alienations and feoffments, sometimes to Lords and Biers of the Kingdome to have maintenance and sometimes to other persons of whose names the disseised cannot have notice, to the intention to defer and delay by such frauds the same disseised and other Demandants and Heirs of their Recoveries, to the great detriment and oppression of the people: That from thenceforth following that no Gift or Feoffment shall be made of Lands, Tenements, or Goods, by fraud and maintenance; and if any shall be made in such manner, they shall be held for nothing and of no value.

And the same disseised shall from thence have their recovery against the first Disseisors as well of Lands and Tenements, as of double damages, no respect being had to such alienations: so that the Disseised commence their Suits within a year after the Disseisin made.

And further by the same Act it was ordained and established, that the same Statute should take hold of every other Action in Pleas of Land, where such Feoffments should be made by fraud or collusion, to have his recovery against such Feoffor, as by the same Act, amongst other things, it fully appeareth.

And the same R. further saith that the same T. H. whom &c. nor any of his Ancestors at any time had in the same Messuage, sixty acres of Land, sixty acres of Pasture, and eighty acres of Wood, of the Tenements aforesaid, with the appurtenances in the Demand aforesaid, above specified parcel unless by the Gift and Feoffment of the same E. P. and N. M. made to the same T. H. to the end and intention to defer and delay by such fraud the same R. and his Heirs from his recovery aforesaid.

And the same Richard further saith that the same E. P. and N. M. from the time of the Gift and Feoffment aforesaid, and alwayes afterwards received, and yet receive the Issues and profits of the same Messuages sixty acres of Land, sixty acres of Pasture, and 80. acres of Wood, of the tenements aforesaid, with the appurtenances above specified parcel coming.

And so the same R. saith, that the said Gift and Feoffment in form aforesaid made for nothing and of no value, by the Statute aforesaid, are adjudged without this, that the said T. H. or any of his Ancestors, ever had any other thing in his Demeasne, in Reversion, or in Services, in the said Messuage, sixty acres of Land, sixty acres of Pasture, and eighty acres of Wood, with the appurtenances of the Tenements aforesaid, with the appurtenances in the Demand aforesaid above specified parcel, after the said title in the Writ and Demand aforesaid above contained: and this he is ready to verify.

Quere of
this travellers

Whereupon he prayeth Judgment, if the said A. Tenant by his Warranty ought to be admitted to his Voucher in this Case: And as to one Messuage twenty acres of Land, and one hundred acres of Furze, and Heath of the Tenements aforesaid with the appurtenances, in the Demand aforesaid above specified residue, the Demand. counterpleads the Voucher, generally as above.

And as to the other part, the Demandant counterpleads with the Voucher generally.

HENDEN.

Formdon in Discendre.

And in Hill. Term 20. In which Term these Counter-Pleas were plead.

Towse, Serjeant for the Tenant, move the Court for an imparlance to these Counterpleas until 15. Pas. 21. Jac. and hath it before; which day the parties agreed by the aid of the Court &c. And the same R. D. prayeth Licence thereof to imparle here until this day, to wit, 15. Pas. and hath it, &c. The same day is given as well to the same R. D. as to the same A. Tenant, Judgment. by his Warrantie here &c. and he hath further imparlance, until Crin. Trin. 21. Jac. And now here at this day, to wit, the said Crin. Trin. came as well

This Judgment was entered in *Gulstons* Office, T. 21. Jac. Rot. 32. amongst the Pleas of Land, with an *Alias promi pater* &c.

the said R. D. by the same J. P. his Attorney, as the same A. Tenant by his Warrantie by H. C. his Attorney. And hereupon the same A. Tenant by his Warrantie relinquishing his Voucher, by him above pretended, saith, that he cannot gainsay the Action of the said R. D. aforesaid, nor but that the Tenements aforesaid, with the appurtenances, are the right of the same R. D. nor but that the same

R. F. gave the same Tenements, with the appurtenances, to the same J. F. and the Heirs Males of his body begotten: So that if the same J. F. should die without Heir Male &c. the Tenements aforesaid with the appurtenances to the same R. D. and his Heirs, should remain: as the same R. D. by his Warrant and Declaration aforesaid supposeth. Therefore it is considered that the said R. D. recover his Seisin against the same E. and N. of the tenements aforesaid, with the appurtenances; and that the same E. and N. have of the Lands of the same A. to the value &c. And the same A. in mercy &c. And the Writ of Seisin is awarded and returnable, 8. Mich.

Mercy.

The Tenant appears by his Guardian, and voucheth over, and the Demandant counterpleads the Vouch, & saith that he hath nothing, *per que* &c. And afterwards Issue joyned thereupon: Whereupon the Tenant waves the Voucher, and confesseth the

H 16. 02 41. Eliz. Rot. 360. ff. And the same Tenant by T. W. who is admitted by the Court of the Queen here to prosecute for the same Tenant, being within age, as Guardian of the same tenant, and defends his right when &c. And voucheth thereof to warrant H. E. and M. his wife Daughter and Heir of J. D. Brother and Heir of T. D. Summoned in the County aforesaid, by the aid of the Court, &c. And the Demandant counterpleads the Voucher, that he had nothing by which &c. and they are at Issue. Ve fac. awarded &c. At which day here came as well the said Demandant by his Attorney aforesaid; as

the same G. tenant by his Guardian aforesaid. And hereupon the same tenant relinquishing his Voucher aforesaid to warrant, saith, that he cannot gainsay the Action of the said Demandant aforesaid, nor but that the same H. and M. whom &c. nor any of the Ancestors of the same M. whose Heir he is at any time had any thing in the said Mannor, with the appurtenances by the same Demandant above demanded in his Demesne, Service, or in Reversion, after the gift aforesaid, until the day of purchasing of the Writ of the same Demandant, to wit, the same (such a day) so that the same Tenant, or any of his Ancestors of that Mannor, with the appurtenances of any parcel thereof, could inroffe, as the same Demandant above hath alleged. Therefore it is considered, that the said Demandant recover his Seisin against the same tenant of the said Mannor, with the appurtenances; and nothing of the mercy of the said tenant; for that he is within age: And hereupon prayeth a Writ of Seisin, &c.

Nothing of mercy, because an Infant.

E43. Eliz. Rot. 34. Brownlow, amongst the Pleas of Land, Somers. ff. M. C. and Eliz. C. by N. S. and H. C. who are admitted by the Court of the Queen here, who prosecute for the same M. and E. being within age, as the next friends of the same M. and E. demand against H. M. Esq. seven Messuages, two Totts, forty acres of Land, twenty acres of Meadow and thirty acres of Pasture with the appurtenances in L. C. and A. C. of which W. M. Esq. was seised in his Demesne, as of fee. And being thereof seised, after the fourth day of Feb. Anno Regis H. 8. the dearly beloved Father of the Lady the Queen, now after the Conquest, the 27. levied a certain Fine in the Court of the said Lady the Queen, in the Common Bench at Westminster, in the County of Midd. in Cro. Trin. Anno Reginae 15. before J. D. R. H. R. M. and R. M. then Justices of the said Lady the Queen of the Bench aforesaid, and other faithful people of the said Lady the Queen, then there present, between one W. C. and C. N. Plaintiffs, and the same W. M. Deforcant, of the Tenements aforesaid, with the appurtenances; whereof a Plea of Covenant was summoned between them in the same Court, to wit, that the said W. M. acknowledged the tenements aforesaid with the appurtenances, to be the right of the same W. C. as those which the same W. and C. have of the Gift of the same W. M. and the same remised and quit-claimed from himself and his Heirs to the same W. C. and C. and the Heirs of the same W. for ever: Which said Fine, in form aforesaid levied, was had and levied to the use and behoof of the said W. for term of his life.

And after the decease of the same W. to the use and behoof of G. M. and the Heirs Males of his Body lawfully begotten: And for default of such Issue to the use and behoof of J. M. and the Heirs Males of his Body begotten.

And for default of such Issue, then to the use and behoof of the Heirs Males of the Body of W. M. begotten. And for default of such Issue, then to the use and behoof of the Heirs Females of the Body of the same W. M. begotten.

And which after the death of the said W. M. G. and J. to the said Margery and Elizabeth, Daughters and Heirs of the Body of D. C. Daughters and Heirs Females of the Body of the same W. M. begotten. ought to remain by force of the said Fine: And by force of a certain Act of Parliament of the said late King at Westminster, in the same County of Midd. the fourth day of February, Anno 27. abovesaid. De usibus in possessionem transferend. held and made, for that every one of the same W. M. G. and J. died without Heirs Males of their Bodies begotten.

And whereupon the same Mary and Eliz. say that the said W. M. was seised of the Tenements aforesaid, with the appurtenances, in his Demesne, as of fee: and had Issue of his Body lawfully begotten, the same G. M. J. M. and the said D.

The Demandants by prochem Amves, sue a speciall Writ of Formdon in Remainder, upon a Fine levied for uses, after the Statute of 27. H. 8.

P. 15. Ja. Rot. 124. Such a Writ upon a Gift in tail, after the Statute of Uses, H. 45. Eliz. Rot. 114. Such a general Writ, and a Spec. Count.

P. 12. Ja. Rot. 82. Such a Writ, and the Tenant, for part, pleads a Fide, with Proclamation in Bar; and as to the residue, Release from the Ancestor with Warranty; As to the Fine not comprized, &c. as to the Release Deins Age.

Formdon in Remainder.

And being so thereof seised, after the said 4th. day of February, An. Regis. H. 8. 27. abovesaid levied the said Fine in the Court of the said Lady the Queen of the Bench here, to wit, at Westm. aforesaid, in the said Crim. Trin. Anno &c. 15. abovesaid, before the said J. D. R. H. R. M. and R. M. then Justices of the said Lady the Queen of the Bench here, and other faithful People of the said Lady the Queen then and there present between the same W. C. and C. N. Plaintiffs, and the same W. M. Deforçant, of the Tenements aforesaid, with the appurtenances, amongst other things, by the names &c. whereof a Plea of Covenant was summoned between them in the same Court; to wit, that the said W. M. acknowledged the aforesaid Tenements, with the Appurtenances to be the right of the said W. C. as those which the same W. C. and C. have of the Gift of the same W. M. and the same had remised and quit-claimed from himself and his Heirs, to the same W. C. and C. and the Heirs of the same W. C. for ever; which said Fine, in form aforesaid, had and levied was to the use and behoof of the said G. M. and the Heirs Males of his Body begotten.

And for default of such Issue, to the use and behoof of the Heirs of the said J. M. and of his Body begotten.

And for default of such Issue, then to the use and behoof of the Heirs Males of the Body of W. M. begotten.

And for default of such Issue, then to the use and behoof of the Heirs Females of the Body of the same W. M. begotten: By vertue whereof, and by force of the said Statute in the Parliament of H. late King of England the 8. at Westminster, in the County of Midd. the 4th. day of February, An. 27. abovesaid, De usibus in possessionem transferend. held, made, the same W. M. was seised of the Tenements aforesaid, with the appurtenances in his Demeasne, as of frank Tenement for term of his life, the remainder thereof after the decease of the said W. M. to the same G. M. and the Heirs Males of her Body issuing.

And for default of such Issue, then to the use and behoof of the said J. M. and the Heirs Males of the Body of the same J. begotten. And for default of such Issue, then to the use and behoof of the Heir Males of the Body of the same W. M. begotten in the time of peace, in the time of the Lady the Queen, now taking thereof the profits, to the value, &c.

And the same W. M. so being thereof seised, the remainder thereof, as is above limited, in form aforesaid, belonging to the same W. M. afterwards at Q. C. aforesaid died at the time of his death, having no other Issue besides the same G. M. and J. M. and D. after whose death the same G. into the Tenements aforesaid, with the appurtenances, as in his Remainder, thereto entred, and was thereof seised in his Demeasne as of Fee-tail to wit, to him and his Heirs Males of his Body issuing in the time of peace, in the time of the Lady the Queen, now taking thereof the profits to the value &c.

And being thereof so seised, the same J. afterwards at Q. C. aforesaid died without Heirs Males of his Body issuing. And from the same G. for that he and the same W. and J. and every of them died without Heir Males of their Bodies begotten, remaineth the right by form &c. to the same D. Daughter and Heir Female of the Body of the said W. M. begotten; and which after the death &c. And thereof bringeth Suit, &c.

The Tenant defends his right, and confesseth the seisin of the donour; and that a fine was levied to the uses abovesaid, and put &c. But the same *H.* further saith that the fine aforesaid was levied to further uses and intentions following; to wit, that the same *W. M.* during his life time, should have full Authority and power at his pleasure, to alter change or determinē, all, or any of the uses and intentions abovesaid; and thereupon from time to time, at his like pleasure declare, and limit any other, or new uses of the same fine: And that the same *W. C.* and *C.* and the heirs of the said *W. C.* should stand, and be seized of the tenements aforesaid, with the appurtenances, to the uses and intentions aforesaid: and the same *H.* further saith, that the said *W. M.* by vertue of the said Fine in Form aforesaid, and to the uses and intentions abovesaid levied, and by force of the same Statute *de usibus in possessionem transferend.* held, made, from the time of the levying of the said Fine untill the first day of July, Anno Regni. 17. abovesaid, was seized of the tenements aforesaid, with the Appurtenances in his demesne, as of Frank-tenement for term of his life, the remainder thereof after the decease of the same *W. M.* to the same *G. M.* and the heirs, Males of his body begotten; the remainder thereof for default of such issue, to the said *J. M.* and the heirs Males of his body begotten, the remainder thereof for default of such issue, to the heirs Males of the body of the said *W. M.* begotten, the Remainder thereof for default of such issue to the heirs Females of the said *W. M.* with the same Authority and power to the same *W. M.* as is premised, reserved, and limited, of altering and changing, all or any of the uses and intentions abovesaid, whereunto the same Fine as is premised was had and levied, and thereupon from time to time to declare and limit any other or new uses belonging to that Fine. and the same *W. M.* being so thereof seized, the remainder thereof, and the Authority and power aforesaid, as is above limited in form aforesaid, belonging to the same *W. M.* the said first day of July, Anno Regni. 17. abovesaid, at *Q. C.* aforesaid declared, and published that the will and intention of the same *W. M.* then was that the same uses to which the same Fine as is premised was had and levied, should from thence forth be changed, determined, and cease. And that the same Fine from thenceforth; afterwards should be and be adjudged, that the same Tenements should be to the only use of the same *W. M.* his heirs and assigns for ever. And to many other uses and intentions. By vertue whereof, And by force of the same Statute, *de usibus in possessionem transferend.* the same *W. M.* into the Tenements aforesaid with the appurtenances entred, clayming to have and hold the same to him, and his heirs, and was thereof seized in his Demesne as of fee. And being so thereof seized, the same *W. M.* afterwards and before the day of purchasing of the original Writ of the same *M.* and *Eliz.* infeoffed the same *H. M.* of the same tenements with the appurtenances, to have and to hold the same tenements with the appurtenances to the same *H.* his heirs and assigns for ever: By

The Tenant
confesseth the
seisin of the
Donour: And
that the said
Fine was levied
to the uses
aforesaid, but
with power to
adnu such u-
ses, and to
make new uses,
which he did
accordingly,
&c.

Formdon in Discendre.

The demandants maintain the former uses in their count, & traverse the other uses, and issue thereupon.

vertue of which feoffment the same *H.* was, and yet is, thereof seised in his demesne as of fee. And this he is ready to verifie, whereupon he prayeth Judgment, if Action, &c.

And the same *M.* and *E.* say, that they by any thing before alledged from having their said Action ought not to be barred, because they as before say, that the said Fine of the Tenements aforesaid, with the appurtenances in form aforesaid levied, was had and levied to the use and behoof of the same *W. M.* for term of his life. And after the decease of the same *W.* to the use of the said *G. M.* and the heirs Males of his body begotten. And for default of such issue to the use and behoof of the same *J. M.* and the heirs Males of his body begotten. And for default of such issue, then to the use and behoof of the heirs Males of the body of the same *W. M.* begotten. And for default of such issue, then to the use and behoof of the heirs Females of the body of the same *W. M.* begotten, as they have above alledged: without this, that the said Fine was had and levied to any further uses and intentions, that the same *W. M.* during his life time, should have full Authority and power at his pleasure to alter change or determine all, or any uses or intentions abovesaid; in manner and form as the said *H.* hath above alledged. And this they are ready to verifie: whereupon they pray judgment and seisin of the Tenements aforesaid, with the appurtenances to them to be adjudged &c.

Demandant by prochein Amyes Count in Formdon in le Descender, upon uses limited, in tail Spec. upon a common recovery, had before the State, of 27. of uses. Note that it is a general Writ, and a Spec. Count.

M 9. Jac. Rot. 168. amongst the Pleas of Land, *Brownlow* *ss. F.* *B.* by *R. T.* and *J. G.* who are admitted by the Court of the Lord the King here, to prosecute for the same *F.* who is within Age. As the next friends of the same *F.* demand against *J. P.* and *S. P.* two Messuages, two Gardens, twenty Acres of Land, six Acres of Meadow, ten Acres of Pasture, and thirty Acres of Heath, with the appurtenances in *J.* which *I. C. Knight, R. F. I. M. R. C. T. M. R. C.* and *I. B.* gave to *G. B.* And the heirs Males of his body lawfully begotten. And which after the death of the same *G.* and *Ia.* Sonne of the said *G.* to the same *F.* Sonne of the same *Ia.* Cozen, and heir Male of the said *G.* ought to descend, by form of the said gift &c. And by force of a certain Act in Parliament of *H.* late King of England the eighth, at *Westminster* in the County of *Middlesex*, the fourth day of February, Anno *Et.* 27. *de usibus in possessionem transferend.* held, made and provided. And whereupon he saith that the same *G. B.* was seised of the Tenements aforesaid, with the appurtenances in his Demesne as of fee. And the same *G.* being so thereof seised, the same *I. C. R. I. M. R. T. R.* and *I. B.* by the names of *I. C. Knight, R. F. I. M. R. C. T. M. R. C.* and *I. B.* Esquire, the 26. day of May, Anno 9. *Eliz. Regin.* prosecuted out of the Court of Chancery, of the said Lady the Queen the same Chancery at *Westm.* in the same County of *Middl.* then being a certain Writ of the said Lady the Queen, *de ingr. super disseiam in le poss.* against the same *G. B.* and one *I.* then his wife by the names of *G. B.* Esquire, and *I.* his wife of the Tenements aforesaid, with the appurtenances

tenances above demanded amongst other things to the same *G.* then being Tenant of the Free-holds of the Tenements aforesaid, with the appurtenances, by the names of the Mannour of *T.* with the appurtenances, and 50. Messuages &c. reciting the Recovery, and the entry of the seisin &c. untill *prout.* by that Writ &c. it was commanded &c. which said recovery and seisin thereupon in form aforesaid had, were had to the use of the said *G. B.* and the heirs Males of his body lawfully begotten for ever. By vertue of which recovery, and by force of the said Act, *de usibus* &c. held made and provided, the same *G. B.* was seised of the Tenements aforesaid, with the appurtenances above demanded amongst other things in his Demeasne as of Fee tayl, to wit, to him and his heirs males of his body lawfully begotten, by the form &c. And by force of the Statute aforesaid in the time of peace, in the time of *Eliz.* &c. taking thereof the profits to the value, &c. And from the said *G.* descends the right by form, &c. and by force of the Statute aforesaid to the same *F.* who now demands, &c. as Son and heir of the said *I.* and Cozen, and heir male of the same *G.* &c. And which after the death, &c. And thereof brings suite, &c.

Uses limited.

And the same *I. P.* and *S. P.* by *I. R.* their Atturney come and defend their right when, &c. And say that they the same day of purchasing of the Writ of entry *sur disseisin le post* by the same *I. C. R. F. I. M. R. C. T. M.* and *I. B.* against the same *G. B.* and *I.* in form aforesaid prosecuted, were and yet are seised of the Tenements aforesaid with the appurtenances in their Demeasne as of fee without this that the same *G. B.* the same day of purchasing of the said Writ of entry *sur disseisin in le post* or at any time afterwards the same Writ depending, was seised of the tenements aforesaid with the appurtenances in the Declaration aforesaid, above demanded in manner and form as the same *F. B.* by his declaration aforesaid above supposeth. And this they are ready to verify, whereupon they pray Judgment, if Action, &c.

Traversa.

P 39. *Eliz. rot. 101.* amongst the Pleas of Land, *Brownlow* Elsewhere as it appeareth. *H. 39. Eliz. Rot. 85.* Elsewhere as it appeareth. *H. 38. Rot. 100.* Elsewhere as it appeareth. *Pas. 37. Rot. 46.* It is thus contined, *London ss. E. N.* by *T. C.* his Atturney demandeth against the Master and Wardens of the Guild or fraternity of St. *Mary* of the *Clothiers*, *London*, one Messuage with the appurtenances in the Parish, &c. which *I. D.* and *W. A.* gave to *R. N.* Earl of *W.* and *I.* his Wife, and the heirs Males of the bodies of the same *R.* and *I.* begotten. And that they ought to descend to the demandant, as Cozen and heir of the Donees, the Tenants vouch *I. W.* Esquire, Cozen and heir of *R. W.* to wit, the son of *A. H.* the daughter of *H. D.* daughter of the same *T. S.* summoned in *London*, who appeared, and pleaded as followeth.

And the same *T. H.* as before defendeth his right when, &c. And prayeth judgment of the same Writ because he saith that long before the same *I. D.* and *W. A.* had any thing in the Messuage aforesaid

Formdon in Discendre.

Descent of the
Condition to
King H. the 5.

H. 6. deposed.

Usurpation of
the Crown of
England by
Rich. the third.

said with the appurtenances, the Lord *H.* late King of *E.* the fourth, was seised of the same Messuage with the appurtenances in his demesne of fee; in the right of his Crown of *E.* And being so thereof seised the 4. day of *February*, Anno Regni, &c. 6. by his letters patents bearing date at *Westmin.* in the County of *Middlesex*, the same day and year, granted to the same *J. D.* and *W. A.* the Messuage aforesaid with the appurtenances. To have and to hold unto them and their heirs of the same late King *H.* the fourth, and his heirs for ever, by the Services thereof due and accustomed. So that the same *I.* and *W.* full and peaceable seisin thereof being had, the said Messuage with the appurtenances, would give and grant to one *R.* then Earl of *W.* brother of the said King *H.* the fourth, and *I.* then Wife of the said Earl, and to the heirs Males of the same Earl and *I.* begotten. And if the same Earl and *I.* should dye without issue Male of their bodies, then after the death of the same *E.* and *I.* the Messuage aforesaid, with the appurtenances unto the said late King *Henry* the 4. and his heirs should revert, as by the same Letters Patents, more fully appeareth; by force of which Letters Patents, the same *D.* and *W.* were seised of the Messuage aforesaid, with the appurtenances in their Demesne, as of fee, under the Condition in the same Letters Patents mentioned. And they being so thereof seised, the same late King *H.* the fourth died, after whose death, the Condition of the Messuage aforesaid, with the appurtenances descended to *H.* late King of *England*, the 5. as Son and heir of the late King *H.* the fourth. And afterwards the same *H.* the 5. died, after whose death, the Condition of the said Messuage with the appurtenances, descended to *H.* late King of *England* the sixth, as Son and heir of the said King *H.* the 5. And afterwards the said *H.* the sixth, from the government of this Realm of *England* was deposed. And the Lord *E.* late King of *England*, the fourth, the government of this Realm of *England* took upon himself. And afterwards the said Lord *E.* the fourth died, after whose death, aswell the Condition of the said Messuage with the appurtenances, as the government of this Realm of *England* descended to the Lord *E.* late King of *England* the fifth, as Son and heir of the late King *Edward* the fourth. And afterwards the said King *E.* the fifth died. After whose death *Rich.* late (of Fact, but not of Right) King of *England* the third, the government of this Realm of *England* took upon himself. And afterwards the same late King *Rich.* the third died, after whose death the Lord *Henry*, late King of *England* the seventh, took upon him the government of this Realm of *England*. And afterwards the same *H.* late King of *England* the seventh died, and so pleads descents of the Crown, and the Condition aforesaid unto Queen *Elizabeth*. And the same *T. H.* further saith that after the last continuance of the same Plea, to wit, after the said *Ob. Hill.* last past, from which day the same Plea was last continued here untill this day, to wit, xv. nam. *Pas.* And before this day, to wit, the first day of *Aprill* Anno 30. *Regin.* the same Queen, now by her letters Patents, with the great Seal of *England*.

Sealed

Sealed, bearing date at *westm.* in the County of *Middlesex*, the same day and year.

To Our Faithfull and Beloved H. B. Maior of the City of London, and Escheater of the same City, T. O. one of the Justices of the said Lady the Queen, of the Common-Bench. W. D. Serjeant at Law; J. G. and others.

WE assign the same Maior, T. O. &c. or any two or more of them, and to them or any two or more of them full power and authority by the tenor of our Letters Pattents, to enquire as well by the oath of honest and lawfull men of the said City of London, as well within the Liberties as without, as by the examination of witnesses upon their oaths upon the holy Evangelist corporally to be made, and by all other means and wayes whereby they may or can the better know, or any two or more of them may or can know, whether the said J. D. and W. of A. the Tenement aforesaid, with the appurtenances and all other the premisses, gave and granted, or either of them gave or granted, or the heirs of them or either of them gave or granted unto the said R. Earl of W. and I. his wife, To have and to hold, to them and the heirs males of the bodies of the same C. and I. begotten for ever. And that if the same C. and I. should dye without issue male of their bodies begotten, that then whether the Tenement aforesaid, with the other premisses, should intirely remain to the said H. the 4. and his heirs according to the tenor and effect of the Letters Pattents aforesaid, or no. And whether the same I. D. and W. A. have performed the said Condition in the Letters Pattents Spec. according to the tenor and effect of the same Letters Pattents, or not. And whether by reason of any other lawful cause or matter whatsoever, the Tenement aforesaid, with the appurtenances unto the hands of the said Lady the Queen now by any title or right ought to come or be in the hands of the said Lady the Queen. And also of all Articles, matters, and circumstances, which for the better Service of the Lady the Queen in that behalf, as to them or any two or more of them shall seem consentaneous and opportune. And therefore We command the said Commissioners, that at the same day and place, or dayes and places which or where the Commissioners shall provide heretunto, or any two or more of them shall provide, shall of and upon the premisses, with all and singular the circumstances, diligently inquire, or any two or more of them shall inquire so, that the Inquisition thereupon be distinctly and openly taken before them, or any two or more of them. And that they shall have, or any two or more of them shall have before the Barons of the Lady the Queen of the Exchequer at *westm.* as soon as they can and at farthest xv. Pas. then next following under their Seals, or of any two or more of them; And under the Seals of those by whom that Inquisition shall be made. And that then they lay down their Commission there. The said Lady the Queen also

Formdon in Discendre.

Inquisition.

Condition
broken.

commanded, by vertue of the said Letters Patents, the Sheriffs of the City of *London* aforesaid, that to the same day and place, or dayes and places, or what the Commissioners or any two or more of them on the behalf of the said Lady the Queen, they make known to come before them or any two or more of them, so many and such honest and lawful men of the City aforesaid, as well within the Liberties as without, by whom the truth of the premisses may be the better inquired of and known. Moreover, the said Lady the Queen gave also to all and singular Maiors, Sheriffs, Auditors, and other Officers, Ministers, and Subjects whatsoever, by the tenor of the said Letters Patents firmly in command, that they obey the said Commissioners and every one of them in the execution of the premisses. And afterwards by a certain Inquisition taken at Guild-Hall in the City of *London*, in the Parish of *St. Lawrence* in the Old-Jury *London* the 9th day of *April*, Anno 39. abovesaid, before the said *W. D.* and *W. N.* by vertue of the same Commission, to the same *W.* and *W.* and other Commissioners aforesaid directed by the oath of *W. H.* & 19. others it is found that the same *I. D.* and *W. A.* gave nor nor granted, nor either of them gave or granted, nor the heirs of the same *I. D.* & *W. A.* or any of them gave or granted to the same *E.* and *I.* his wife the Tenement aforesaid, with the appurtenances and other the premisses, to have and to hold to them and their heirs males of the bodies of the same *E.* and *I.* issuing for ever; And if the same *E.* and *I.* should dye without heirs begotten of their bodies, That then the Tenements aforesaid, with the appurtenances and other the premisses should intirely remain to the said King *Henr.* the 4th, and his heirs, according to the form and effect of the Letters Patents aforesaid. And further it is found by the same Inquisition, that the same *I. D.* and *W. A.* have not performed the same condition in the Letters Patents aforesaid specified, according to the tenor and effect of the said Letters Patents of the said late King *H.* the 4th, as by the said Inquisition in the Court of the Exchequer aforesaid remaining more fully appeareth. By vertue whereof the said Lady the Queen now was and yet is seised of the Tenements aforesaid, with the appurtenances in her demesne as of fee in the right of her Crown of *England.* And this he is ready to verifie, whereupon he prayeth judgment of the Writ, &c. whereupon the same *E.* prayeth licence to imparle to the same plea of the said *T. H.* above pleaded, to quash the said Writ in *Craftino. Trin.*

Howper.

H. 42. *Eliz. Rot. 96.* amongst the pleas of Land. *Br. Staff. ff.* *W. C. Esq.* by *John R.* his Attorney demandeth against *J. Jennings*, Widow, eight acres of Land with the appurtenances in *W.* which (together with the Mannors of *W. & T. & 112.* acres of land, 20 acres of Meadow, 40 acres of wood, and 10. l. rent, with the appurtenances in *W. W. F. & T.* in the County of *Staff.* and ten acres of Land, and ten acres of Meadow, with the appurtenances in *W.* and *K.* and the fifth part of the Mannor of *E.* with the appurtenances in the County of *Derb.*) which *J. H.* of *S.* Esquire, gave to *Eliaore B.* widow, late wife of *H. B.* Knight, then deceased, and the heirs between the same *H.* and *E.* lawfully begotten. And which after the death of the said *Eliaore*, and *Jo. B.* sonne and heir, between the son *H.* and *E.* lawfully begotten, and of *Dorothy* one of the daughters and co-heirs of the same *J.* who holds them in her purparty, together with other Lands and Tenements to her out of the Mannors and Tenements aforesaid, with the appurtenances amongst other things by partition between the same *D. I. B.* and *E. B.* daughters, and the rest of the heirs of the said *John* hapning, made; And to *T. C.* son and heir of the same *Dorothy* to the same *W. C.* son and heir of the said *T.* ought to descend by form of the said gift, &c. And thereupon saith, that the said *J. H.* gave the same 8. acres of Land, with the appurtenances in *W.* aforesaid now demanded. And the same Mannors of *W. & T.* And the said 112. acres of Land, 20 acres of Meadow; 40 acres of Wood, and 10. l. rent, with the appurtenances in *W. W. F.* and *T.* aforesaid. And the same 10 acres of Land, and 10 acres of Meadow, with the appurtenances in *W.* and *K.* aforesaid: And the said fifth part of the Mannor of *E.* aforesaid in the County of *Derb.* to the same *Eliaore* and her heirs, between the same *H.* and *E.* lawfully begotten; by which gift the said *E.* was seized of the Mannors, Tenements, Rent, and the fifth part, with the appurtenances in her demesne as of fee and right by form, &c. in the time of peace, in the time of the Lord *E.* late King of *England* the 4. taking thereof the profits to the value, &c. And being thereof seised, the same *Eliaore* at *W.* aforesaid dyed of such her estate thereof seised, after whose death the Mannors, Tenements, rent, and 5th part aforesaid, with the appurtenances, descended to the said *J. B.* as daughter and heir of the same *Henr.* between the same *H.* and the same *E.* lawfully begotten; which said *John* to the same Mannors, Tenements, and 5th part with the appurtenances entred, and was thereof and of the rent aforesaid with the appurtenances seised in his demesne as of fee and right by form, &c. in the time of peace in the time of *H.* late King of *England* the 8. taking thereof the profits to the value, &c. And the same *Jo.* being so thereof seised, the same *J.* at *W.* aforesaid dyed of such his estate thereof seised. After whose death the Mannors, Tenements, rent, and 5th part with the appurtenances, descended to the said *D. Jo.* and *E. B.* as daughters

Formdon in
descendre by
the heir of a
Coparcener
for part of the
Lands assign-
ed to his Mo-
ther upon a
partition a-
mongst the
co-heirs.

ters

Formdon in Discendre.

Partition be-
tween the Co-
heirs.

ters and co-heirs of the said *John*, whereby the same *D. J.* and *E.* into the said Mannors, Tenements and fifth part, with the appurtenances, entred, and were thereof and of the rent aforesaid, with the appurtenances seised in their demeasne as of fee and right by form, &c. And they being thereof so seised the first day of *June*, Anno *H.* 8. &c. 32. at *W.* aforesaid partition between the said *D. J.* and *E.* of the Mannors, Tenements, Rents & 5th part aforesaid, with the appurtenances was made; by which said partition the same 8. acres of Land with the appurtenances above demanded, and the same Mannor of *W.* with the appurtenances, and also the said 112. acres of Land, 20 acres of Meadow, 40 acres of wood, and 10 l. rent, with the appurtenances in *W. W. F.* and *T.* aforesaid, of the said Mannors, Tenements and rent, with the appurtenances, in the County of *Staff.* aforesaid, were Allotted and assigned to the said *Dorothy* in allowance for her whole purpart, to her out of the Mannors, Tenements, rent and 5th part aforesaid, with the appurtenances happening. And the same Mannor of *T.* with the appurtenances of the same Mannors, Tenements, and rent, with the appurtenances in the County of *Staff.* aforesaid residue by the same partition, were allotted and assigned to the same *Joan* in allowance for her whole purpart to her out of the Mannors, Tenements, rents and 5th part aforesaid, with the appurtenances happening. And the same ten Acres of Land, and ten Acres of Meadow, with the appurtenances in *W.* and *K.* And the said 5th part of the said Mannor of *E.* in the County of *Derb.* of the same Mannors, Tenements, rent and 5th part aforesaid, with the appurtenances residue by the same partition likewise were allotted and assigned to the same *E.* the other daughter and co-heir of the said *Jo. Beaumont*, for the allowance of her whole purpart to her out of the Mannors, Tenements, rent and 5th part aforesaid, with the appurtenances happening. By vertue of which partition, every one of the same *D. J.* and *E.* into the Mannors, Tenements, and other the premisses, with the appurtenances to them, by that partition severally as is premised entred and was thereof seised, to wit, the same *D.* of the same 8. acres of Land, with the appurtenances above demanded. And of the said Mannor of *W.* with the appurtenances, and also of 112 Acres of Land, 20 Acres of Meadow, and 40 Acres of Wood, with the appurtenances in *W. W. F.* and *T.* aforesaid in their demeasne as of fee and right by form, &c. And the same *Jo.* of the same Mannor of *T.* with the appurtenances in her demeasne as of fee and right by form, &c. And the same *Eliaenor* daughter of the said *John* of the said Tenements, with the appurtenances in *W.* and *K.* and the 5th part of the Mannor of *E.* with the appurtenances in her demeasne as of fee and right by form, &c. in the time of peace in the time of *H.* late King of *England* the 8th, taking thereof the profits to the value, &c. And from the same *Dorothy* descendeth the right of the same 8 acres of Land above demanded by form, &c. to the same *T. C.* as son and heir, &c. And from the

the same *Thomas* descendeth the right by form, &c. to the same *W.* who now demandeth as son and heir. And which after the death, &c. And thereof bringeth Suite, &c.

The Tenant pleads *non dedit* for part, and conveys an estate to himself for life, the reversion in fee to one *Rich. P.* of the reversion of the lands. And prayes aid of him in reversion. And it is granted to him returnable here in *Craftino. Trin.* And as to try the issue, &c.

Aide for part granted, and issue for part.

Formdon in Remainder.

P 8. *Ja. Rot.* 114, or 104. *Brownlow. Buck. ff. B. VV.* Esquire, and *A.* his Wife by *Otho Gayer* their Attorney, demand against *T. B.* one Messuage 2. Gard. 35. Acres of Meadow, and 4. Acres of Pasture, with the appurtenances in *A.* of which *W. F.* Esquire was seised in his Demeasne as of Fee. And being so thereof seised the 22. day of *October*, Anno *Eliz.* 24. at *A.* aforesaid by his certain writing indented between the same *B.* of the one part. And the same *W.* of the other part made in consideration of a certain marriage between the same *B.* and the said *A.* then eldest daughter of the same *William*, to be had, and solemnized for himself, and his heirs, covenanted and granted to, and with the same *B.* and his heirs that the said *William*, and his heirs at all times after the Marriage, between the same *B.* and the same *A.* had and solemnized, should stand, and be seised of the Tenements aforesaid, with the appurtenances amongst other things, to the use of the said *W.* and the heirs Males of his body lawfully begotten. And for default of such issue, to the use of the same *Benedict* and *Anne* and the heirs of the body of the same *Anne*, by the same *B.* lawfully begotten, which said *B.* afterwards at *A.* aforesaid took to wife the same *A.* By vertue of which, and by force of a certain Statute in the Parliament of *H.* late King of *E.* the 8. 4. *Febr.* Anno 27. *de usibus in possessionem transferend.* held made and provided, the same *W. F.* was seised of the Tenements aforesaid with the appurtenances in his Demeasne, as of fee tayl, to wit, to him and his heirs Males of his body lawfully begotten, the remainder thereof for default of such issue, to the same *B.* and *A.* and the heirs Males of the body of the same *A.* by the same *B.* lawfully begotten. And which after the marriage aforesaid, and after the death of the same *William*, to the said *B.* and *A.* and the heirs of the body of the said *A.* by the said *B.* lawfully begotten, ought to remain by form of the Covenant and grant aforesaid, and by force of the Statute aforesaid, for that the said *William* died without heir Male of his body lawfully begotten. And whereupon he saith the said *W. F.* was seised of the Tenements aforesaid, with the appurtenances in his Demeasne as of Fee. And being so thereof seised the same 20. day of *Oct.* Anno *Eliz.* 44. aforesaid at *A.* aforesaid by certain writing, indented

Formdon in Remainder brought upon an Indenture of Covenants to raise uses. a Spec. Writ. H. 18. 1. Rot. 68. the like Writ in Summons. P. 27. *Eliz.* Rot. 53. Formdon in Discendre brought upon a Common recovery upon a Writ of Entry in Le-part, and Indenture of uses.

Count.

R r r

between

Formdon in Remainder.

between the same *B.* of the one part, and the same *W.* of the other part made, which other part with the Seal of the same *W.* Sealed the same *B.* and *A.* here in Court shews forth, the date whereof is the same day and year, in consideration of a certain marriage between the same *Benedict* and *Anne* then the eldest daughter of the same *W.* to be had and solemnized for him and his heirs, covenanted and granted to and with the said *B.* and his heirs, that the said *William* and his heirs at all times after the said Marriage between the same *B.* and the same *A.* had and solemnized should stand and be seised of the Tenements aforesaid with the appurtenances amongst other things, to the use of the said *W.* and the heirs Males of his body lawfully begotten; and for default of such issue, to the use of the same *B.* and *A.* and the heirs of the body of the same *A.* by the same *B.* lawfully begotten, which said *Benedict* afterwards, to wit, the 4. day of *November*, *Anno Regis*. 14. at *A.* aforesaid took to Wife the same *A.* by vertue whereof, and by force of a certain Statute in Parliament, 4. *Feb. H. 8.* 27. *de usibus in possessionem transferend.* held made and provided, the same *W. F.* was seised of the Tenements aforesaid, with the appurtenances in his Demeasne as of fee taylor, to wit, to him and his heirs Males of his body lawfully begotten, in the time of peace, in the time of the Lady *Eliz.* taking thereof the profits, to the value &c. And which after the Marriage aforesaid, and after the death of the same *William* to the said *B.* and *A.* and the heirs of the same *A.* by the same *B.* lawfully begotten, ought to remain by the form of the Covenant and grant aforesaid, and by force of the same Statute for that, &c. And thereof brings the Suite &c. the Tenant confesseth the Action, with the recital of the declaration, *Nota.*

Count. in
Formdon in
Remainder
upon a Feoff-
ment made
27. H. 8. to
uses.
H. 13. Ja. Rot.
10.

P I. *J. Rot. 9.* amongst the Pleas of Land, *Scot. Southamp. ss. R.* *W.* Gent. by *J. W.* his Attorney, demandeth against *A. R.* one Messuage, 1. Toft. 5. Acres of Meadow, and 20. Acres of Pasture with the appurtenances which *Henry W.* gave to *R. W.* his Son and heir Male of his body lawfully begotten, so that if the same *Ro.* die without heirs Males of his body lawfully begotten the Messuage Toft Meadow and Pasture aforesaid, with the appurtenances, shall remain to the heirs Males of his body lawfully begotten. And which after the death of the said *Robert*, the Son and heir of the said *Henry* and *Francis*, and *A.* other Sons of the said *Henry*, unto the said *Robert*, now demandant, as heir to the said *A.* and Cozen and heir Male of the said *Henry*, ought to remain by form of the said gift, for that both the same *Robert* and *Francis* died without heirs Males of their bodies begotten. And whereupon he saith that one *Jo. T.* Knight, Lord *A.* was seised of the Tenements aforesaid, with the appurtenances in his Demeasne, as of Fee. And being so thereof seised, the same *Jo.* before the 4. day of *F. Anno* 27. *H. 8.* of the same Tenements with the appurtenances, amongst other things infeoffed the same *H. W.* And certain *N. T. R. A. T. W. P. B. A.* and *Jo. H.*

to hold to them their heirs and assigns for ever to the use of the same *Henry*, his heirs and assigns for ever. By vertue of which said Feoffment, the same *H. W. N. R. T. P. and I.* were seised of the Tenements aforesaid, with the appurtenances amongst other things in their Demeasne as of fee, to the use of the same *H.* and his heirs. And so thereof to the said use being seised, the same *H.* afterwards, and before the said 4. day of *February, Anno 27.* aforesaid, to wit, the 12. of *September, Anno H. 8. 26.* at *W.* in the County aforesaid, made his Testament and last Will in writing. And by the same Will, would that his said Feoffees, should suffer the Executors of the said Testament, to wit, *W. S. Knight R. A. and T. W.* or the Survivour of them, or the Executors or administrators of the Survivour of them, to take the issues and profits of the Tenements aforesaid, with the appurtenances amongst other things, untill such time as the said Executors or one of them had received, or should receive the sum of 400. l. whereof the same *H.* would that *Eliz.* his daughter should have 200. l. towards her marriage. And that *Francis* his Son should at the age of 22. years have 100. l. And that *Alban* his Son should at the age of 22. years have 100. l. And further the same *Henry* by his said last Will, would that after the whole sum of 400. l. so fully received and had out of the issues and profits of the Tenements aforesaid, and other Mannours and Tenements in the same Testament specified, the same Tenements above demanded, amongst other things should remain to the said *R. W.* his Son, and the heirs Males of the body of the said *H.* lawfully begotten. And afterwards and before the same 4. day of *February, Anno H. 8. 27.* aforesaid the same *H.* at *W.* aforesaid died. And the same *N. R. T. P. and I. H.* the same *H.* survived, and were seised of the Tenements aforesaid, above demanded with the appurtenances amongst other things in their Demeasne, as of fee, to the use of the same Executors, untill he or they shall, or should receive the said sum of 400. l. And after the said sum received, to the use of the same *R. W.* the Son of the said *Henry*, and the heirs Males of his body lawfully begotten. And for default of such issue, to the use of the heirs Males of the body of the same *H.* lawfully begotten, untill the said 4. day of *February, Anno H. 8. 27.* aforesaid, which day by vertue of the Feoffment, and Legacy aforesaid, and by force of the same Act, *de usibus in Possessionem transferend.* in the Parliament of the late King *H. 8.* at *Westminster*, in the County of *Middlesex*, then held made and provided the same Executors were of the Tenements aforesaid, with the appurtenances amongst other things possessed, to hold untill they or one of them had, or should receive the residue of the said sum of 400. l. then unpaid, the remainder thereof (the residue of the said Sum being received) to the said *R.* Son of the said *H.* and the heirs Males of his body lawfully begotten. And for default of such issue the remainder thereof to the heirs Males of the body of the said *H.*

law-

Formdon in Remainder.

lawfully begotten, belonging. And the same Executors being so thereof possessed, the remainder thereof in form aforesaid belonging, the same Executors afterwards, to wit, in 7. years next following after the death of the said *H.* ending the first day of *July*, Anno *H.* 8. 24. the same 400. l. out of the issues and profits of the Tenements aforesaid, and other Mannours and Tenements in the Testament aforesaid, for that use devised, received and had. After the receipt of which said sum, the same *R.* the Son of *Henry*, into the Tenements aforesaid, with the appurtenances amongst other things entred, and was thereof seised in his Demesne, as of Fee and right by form &c. in the time of peace, in the time of *H.* 8. taking thereof the profits to the value, &c. And from the same *R.* for that he died without heir Male of his body begotten remaineth the right by form &c. to the said *Francis* another Son of the said *Henry*, as to the Son and heir Male of the body of the said *Henry* lawfully begotten. And from the said *Francis* for that he died without heir Male of his body lawfully begotten the right remaineth by form &c. to the same *Robert.* now demandant, Son and heir of the said *Alban*, and Cozen and heir Male of the body of the said *Henry* being. And which after the death &c. for that &c. And thereof he bringeth suite &c. the Tenant defends his right, and pleads in bar that the same *T.* Lord *Awdley*, did not infeof the said *Henry white*, and the others, issue thereupon is joyned, verdict and judgment for the demandant, and seisin awarded.

Formdon

Formdon in Discendre.

M. 44. & 45. *Eliz. Rot. 152. Br. Norf. ss. G. T. Elquire*, by *I. M.* his Attorney demandeth against *E. C.* otherwise *C. Gent.* 4 acres of Meadow, with the appurtenances in *C.* which *R. D. Knight. P. T. Knight. G. R. C. I. I. S. C. B. I. C. M. W. T. G.* the elder, *F. M. I. H.* and *T. G.* the younger, in the Court of the Lord *H.* late King of *England* the 8th, in the Bench at *Westm.* before *R. B. &c.* and his Associates then Justices of the said late King of the Bench aforesaid, before the 4th day of *February, Anno 27 H. 8.* by the consideration of the same Court, have recovered against *T. T. Esq.* the Grandfather of the said *G.* by Writ of the said Lord the King *de ingr. super disseiam in le post* to the use of the said *Thomas* and *A.* his wife, and the heirs Males of the body of the same *T.* upon the same *A.* lawfully begotten. By vertue of which recovery the same *R. D. P. T. G. R. C. I. I. S. C. B. I. C. W. C. T. B.* the elder, *F. M. I. F. T. G.* the younger were seised of the said 4 Acres of Meadow, with the appurtenances in their demeasne, as of fee to the same use untill the same 4th day of *February, Anno H. 27.* above-said; which day by vertue of the recovery aforesaid, and by force of a certain Statute in the Parliament of the said late King *H. 8.* at *Westminster* in the County of *Middlesex* aforesaid, the 4th day of *February Anno 27.* above-said, *de usibm in possessionem transferend.* the said *T. T.* and *Anne* were seised of the Tenements aforesaid, with the appurtenances, to wit, the same *T.* in his demeasne as of fee tayl, to wit, to him and the heirs males of his body upon the same *Anne* lawfully begotten. And the same *A.* in her demeasne as of her Frank-tenement for term of her life. And which after the death of the same *T. T.* and *A.* and *F.* son and heir of the same *T. T.* to *G.* son and heir of the said *Francis*, ought to descend by form of the said Recovery; And by force of the Statute aforesaid, &c. And whereupon he saith, that the said *T. T.* Grandfather, &c. was seised of the said 4 Acres of Meadow, with the appurtenances amongst other things in his demeasne as of fee. And being so thereof seised, the same *R. D. P. T. G. R. &c.* before the said 4th day of *Febr.* to wit, the 16 day of *June, Anno H. 8. 19.* prosecuted out of the Court of Chancery of the said Lord the King at *Westminster* aforesaid, then being a certain Writ of the said Lord the King, *de ingr. super disseiam in le post*, against the same *T.* the Grandfather of the same *Geo. T.* of the same 4 Acres of Meadow, with the appurtenances amongst other things, the same *T. T.* then Tenant of the Free-hold of the said 4 Acres of Meadow, with the appurtenances being, directed to the then Sheriff of *Norf.* by which Writ the Lord the King commanded the then Sheriffe,

Formdon in
discender up-
on a Recovery
to uses, before
27. H. 8. Spec.
Writ & Spec.
Count.
H. 15. Eliz.
Rot. 64.
P. 15. Ja.
rot. 126.

Court,

Formdon in Reverter.

that the same Sheriffe should command the same *T. T.* that justly and without delay he render to the said *R. D. P. T.* and the others, (and so declares upon the same Recovery word for word) And the demandment prayes a Writ of Seisin: And it is granted them retornable here *Mense Mich.* then next following; by vertue of which said Recovery the same *R. D. P. T.* and the others, into the said Tenements, with the appurtenances entred; which said Recovery in form aforesaid had, as to the 4. Acres of Meadow, with the appurtenances now demanded, was had to the use of the same *T. T.* and *Anne* his wife. And the heirs of the body of the same *T. T.* upon the same *A.* lawfully begotten, by which the same *R. D. P. T.* and others, were seised of the said 4. acres of Meadow, with the appurtenances in their demesne, as of fee for the use aforesaid, untill the said 4th day of *February*, *Anno H. 8.* 27. abovesaid; which day by force of the same Statute in the same Parliament of *H. the 8.* at *westminster* aforesaid, *de usibus in possessionem transferend.* held, made and provided, and by vertue of the said Recovery the same *T. T.* and *A.* were seised of the said 4. Acres of Meadow, with the appurtenances amongst other things, to wit, the said *T. T.* in his demesne as of fee tayl, to wit, to him and his heirs Males of his body upon the same *A.* to be lawfully begotten. And the same *A.* in her demesne as of free hold for the term of her life by form, &c. in the time of peace, in the time of *H. late King of England the 8.* taking thereof the profits to the value, &c. And the same *T.* and *A.* being so thereof seised, the same *T.* and *A.* had issue between them lawfully begotten, the same *F. T.* And from the same *T.* descendeth the right by form, &c. and by force of the Statute aforesaid, to the same *Francis* as son and heir, &c. And from the same *Fr.* descendeth the right by form, &c. and by force of the same Statute to the same *Geo.* who now demandeth as sonne and heir, &c. And which after the death, &c. And thereof bringeth Suit, &c.

Formdon in Reverter.

Count in
formdon in
Reverter up-
on the gift of
the Wife to
uses.

M 13. *Jac. Rpt.* 122. s. *waller.* Elsewhere as it appeareth *M. 11. 3. rot.* 67. amongst the Pleas of Land it is contained thus. *Sussex* s. *R. B. Knight*, otherwise called *R. Earl of C.* and *F.* his Wife, by *I. N.* their Attorney, demand against *R. S. Knight*, and *E. Lisle*, 3 Messuages, 3 tofts, 4 Gardens, 100 acres of Land, 30 acres of Meadow, 200 acres of Pasture, and 500 acres of Wood, with the appurtenances in *E. W. S. M.* and *S.* which *Ro.* late Earl of *E.* And the same *Frances* late Wife of the said Earl, by Fine in the Court of the Lady *Eliz.* late Queen of *England* before her then Justices at *westminster* levied, gave to *W. G. Esquire*, and *F. M. Gent.* and the heirs of the said *W.* for ever,

ever, to the use of *Eliz. Sidney* daughter and heir of *P. S. Knight*, and the heirs of the body of the said *Eliz.* issuing. And for default of such issue to the use of the said *Frances* then wife of the said *E. of Essex*, and the heirs of the same *Frances*. And which after the death of the same *E.* unto the same *Fr.* ought to revert by form of the said gift, &c. And by force of the Statute in this case made and provided, for that the same *E.* dyed without heir of her body issuing, &c. And whereupon they say, that the Count. said late Earl and *F.* his wife were seised of the Tenements afore- said, with the appurtenances as of fee and right in the right of the same *Frances*, in the time of peace in the time of the Lady *Eliz.* late Queen of England, taking thereof the profits to the value, &c. And being so thereof seised, levied a certain Fine in the Court of the said late Queen in the Bench here, to wit, at *Westminster* afore- said in Oct. Sci. *Martini Anno* &c. 33. before *E. A. F. W. W. P.* and *T. W.* then Justices of the said late Queen of the Bench afore- said, And other faithfull people of the said Lady the Queen then there present, between the same *William* and *F.* by the names of *W. G.* Esquire, and *Francis M.* Gent. Plaintiffes. And the same late *E.* and *Frances* by the names of *Rt.* late *E. of Essex*, and *F.* his wife desorceants of the Tenements afore- said, with the appurtenances, whereof a plea of Covenant was then summoned between them in the same Court, to wit, that the said late *E.* and *Fr.* acknowledged the afore- said Tenements, with the appurtenances, to be the right of the said *W.* as those which the same *W.* and *F.* had of the gift of the said late *E.* and *Frances*. And the same had remised and quit claimed from the same late *E.* and *F.* and their heirs to the same *William* and *F.* and the heirs of the said *W.* for ever. And besides, the same late *E.* and *F.* had granted for themselves and the heirs of the said *Fr.* that they would warrant to the same *W.* and *Fr.* and the heirs of the same *W.* the afore- said Tenements, with the appurtenances, against the same late *E.* and *F.* and the heirs of the said *Frances* for ever; As by the same Fine here in Court upon Record remaining, it more fully appeareth and is manifested; which said fine in form afore- said levied and had, was had and levied to the use of the same *Eliz. Sidney*, and the heirs of the body of the same *E.* issuing. And for default of such issue, to the use of the said *Frances*, and the heirs of the said *Fr.* By vertue of which said Fine, and by force of the Statute in the Parliament of the Lord *H.* late King of England the 8. *de usu in possessionem transferend.* 4. Febr. Anno 27. at *Westmin.* in the County of *Middlesex* held, made, and provided, the same *Eliz.* was seised of the Tenements afore- said, with the appurtenances in her demesne as of fee tail, to wit, to her and the heirs of her body issuing, by form, &c. in the time of peace in the time of the Lady *Eliz.* late Queen of England, taking thereof the profits to the value &c. And from the same *E.* for that she dyed without issue of her body, the right reverted by form

Uses of the
Fine are ex-
pressed.

Formdon in Reverter.

that the same Sheriffe should command the same *T. T.* that justly and without delay he render to the said *R. D. P. T.* and the others, (and so declares upon the same Recovery word for word) And the demandment prayes a Writ of Seisin: And it is granted them retornable here *Mense Mich.* then next following; by vertue of which said Recovery the same *R. D. P. T.* and the others, into the said Tenements, with the appurtenances entred; which said Recovery in form aforesaid had, as to the 4. Acres of Meadow, with the appurtenances now demanded, was had to the use of the same *T. T.* and *Anne* his wife. And the heirs of the body of the same *T. T.* upon the same *A.* lawfully begotten, by which the same *R. D. P. T.* and others, were seised of the said 4. acres of Meadow, with the appurtenances in their demesne, as of fee for the use aforesaid, untill the said 4th day of *February*, *Anno H. 8.* 27. abovesaid; which day by force of the same Statute in the same Parliament of *H. the 8.* at *westminster* aforesaid, *de usibus in possessionem transferend.* held, made and provided, and by vertue of the said Recovery the same *T. T.* and *A.* were seised of the said 4. Acres of Meadow, with the appurtenances amongst other things, to wit, the said *T. T.* in his demesne as of fee tayl, to wit, to him and his heirs Males of his body upon the same *A.* to be lawfully begotten. And the same *A.* in her demesne as of free hold for the term of her life by form, &c. in the time of peace, in the time of *H. late King of England the 8.* taking thereof the profits to the value, &c. And the same *T.* and *A.* being so thereof seised, the same *T.* and *A.* had issue between them lawfully begotten, the same *F. T.* And from the same *T.* descendeth the right by form, &c. and by force of the Statute aforesaid, to the same *Francis* as son and heir, &c. And from the same *Fr.* descendeth the right by form, &c. and by force of the same Statute to the same *Geo.* who now demandeth as sonne and heir, &c. And which after the deatn, &c. And thereof bringeth Suit, &c.

Formdon in Reverter.

Count in
formdon in
Reverter up-
on the gift of
the Wife to
uses.

M 13. *Jac. Rpt.* 122. s. *waller.* Elsewhere as it appeareth *M. 11. J. rot.* 67. amongst the Pleas of Land it is contained thus. *Sussex* *ss.* *R. B. Knight*, otherwise called *R. Earl of C.* and *F.* his Wife, by *I. N.* their Attorney, demand against *R. S. Knight*, and *E. Lisle*, 3 Messuages, 3 tofts, 4 Gardens, 100 acres of Land, 30 acres of Meadow, 200 acres of Pasture, and 500 acres of Wood, with the appurtenances in *E. W. S. M.* and *S.* which *Ro.* late Earl of *E.* And the same *Frances* late Wife of the said Earl, by Fine in the Court of the Lady *Eliz.* late Queen of *England* before her then Justices at *westminster* levied, gave to *W. G. Esquire*, and *F. M. Gent.* and the heirs of the said *W.* for ever,

ever, to the use of *Eliz. Sidney* daughter and heir of *P. S. Knight*, and the heirs of the body of the said *Eliz.* issuing. And for default of such issue to the use of the said *Frances* then wife of the said *E. of Essex*, and the heirs of the same *Frances*. And which after the death of the same *E.* unto the same *Fr.* ought to revert by form of the said gift, &c. And by force of the Statute in this case made and provided, for that the same *E.* dyed without heir of her body issuing, &c. And whereupon they say, that the said late Earl and *F.* his wife were seised of the Tenements afore-
Court.
said, with the appurtenances as of fee and right in the right of the same *Frances*, in the time of peace in the time of the Lady *Eliz.* late Queen of *England*, taking thereof the profits to the value, &c. And being so thereof seised, levied a certain Fine in the Court of the said late Queen in the Bench here, to wit, at *Westminster* afore-
Court.
said in Oct. Sci. *Martini Anno* &c. 33. before *E. A. F. W. W. P.* and *T. W.* then Justices of the said late Queen of the Bench afore-
Court.
said, And other faithfull people of the said Lady the Queen then there present, between the same *William* and *F.* by the names of *W. G.* Esquire, and *Francis M.* Gent. Plaintiffes. And the same late *E.* and *Frances* by the names of *Rt.* late *E. of Essex*, and *F.* his wife desorceants of the Tenements afore-
Court.
said, with the appurtenances, whereof a plea of Covenant was then summoned between them in the same Court, to wit, that the said late *E.* and *Fr.* acknowledged the afore-
Court.
said Tenements, with the appurtenances, to be the right of the said *W.* as those which the same *W.* and *F.* had of the gift of the said late *E.* and *Frances*. And the same had remised and quit claimed from the same late *E.* and *F.* and their heirs to the same *William* and *F.* and the heirs of the said *W.* for ever. And besides, the same late *E.* and *F.* had granted for themselves and the heirs of the said *Fr.* that they would warrant to the same *W.* and *Fr.* and the heirs of the same *W.* the afore-
Court.
said Tenements, with the appurtenances, against the same late *E.* and *F.* and the heirs of the said *Frances* for ever; As by the same Fine here in Court upon Record remaining, it more fully appeareth and is manifested; which said fine in form afore-
Court.
said levied and had, was had and levied to the use of the same *Eliz. Sidney*, and the heirs of the body of the same *E.* issuing. And for default of such issue, to the use of the said *Frances*, and the heirs of the said *Fr.* By vertue of which said Fine, and by force of the Statute in the Parliament of the Lord *H.* late King of *England* the 8. *de usibus in possessionem transferend.* 4. *Febr.* Anno 27. at *Westmin.* in the County of *Middlesex* held, made, and provided, the same *Eliz.* was seised of the Tenements afore-
Court.
said, with the appurtenances in her demesne as of fee tail, to wit, to her and the heirs of her body issuing, by form, &c. in the time of peace in the time of the Lady *Eliz.* late Queen of *England*, taking thereof the profits to the value &c. And from the same *E.* for that she dyed without issue of her body, the right reverted by
form

Uses of the
Fine are ex-
pressed.

Formdon in Reverter.

form &c. to the same *Fr.* who together, &c. now demandeth and donatrix. And which after the death, &c. for that &c. And thereof bringeth suit, &c.

Plea in abatement of the Writ.

And the same Earl by *Amb. Barton* his Attorney cometh and prayeth Judgment of the same Writ, because he saith, that the said *Frances* at the time or the death of the said *Eliz.* was under Coverture of the said *R. B. Knight*, now her husband. So that the right of the said Tenements if any &c. to the same *R. & F.* in the right of the said *F.* reverted; in which case the same *Rich.* and *F.* by the same Writ ought to have supposed, that the same Tenements to the same *R.* and *F.* in the right of the same *F.* reverted; And this he is ready to verifie, whereupon he prayeth Judgment of that Writ, &c.

Demurrer.

And the same *Rich.* and *Frances* say, that the said Plea of the said Earl in abatement of the said writ in manner and form afore-said pleaded, and the matter therein contained are not sufficient in law to quash that writ. And that they to the same plea in manner and form afore-said pleaded, need not, nor by the Law of the Land are bound to answer. And this they are ready to verifie, whereupon for defect of sufficient answer of the same Earl in this behalf, the same *R.* and *Frances* pray Judgment. And that their said Writ may be adjudged good, &c.

Joynder in Demurrer.

H. 11. Ja.

And the said Earl for that that he sufficient matter in Law to quash the said Writ hath above alledged, which he is ready to verifie, which said matter the same *R.* and *Fr.* do not gainsay, nor in any wise answer thereunto, but to admit the same averment altogether do refuse, As before prayes Judgment. And that the same writ be quashed, &c. And because the Justices here will advise themselves of and upon the premisses before they give Judgment thereof, day is given to the parties afore-said here untill *Octab. Hill.* of hearing thereof their Judgment, for that the same Justices here thereof not as yet &c. At which day here came as well the same *R. & F.* as the said Earl by their said Attorneys. And hereupon as well the said writ and declaration afore-said, as the same plea of the said Earl above in quashing of the said writ pleaded, being seen and by the Court here fully understood, It seemeth to the same Court here, that the said plea is insufficient in Law to quash the said writ. And that the said writ is sufficiently good, the same plea of the said Earl in quashing of the said writ in form afore-said pleaded notwithstanding. Therefore it is said by the Court here to the said Earl, that he answer to the same *R.* and *F.* to the action of their said writ, &c. whereupon the same Earl defendeth his right, when &c. And voucheth thereof to warrant *R. G. Gent.* and *K. P.* let them be here in *Craffino See. Trin.* And let them be summoned in the County afore-said by the Ayd of the Court of, &c. the same day is given to the parties afore-said here, &c. At which day here came as well the said *R. F. & I. S.* by their said Attorney, As the said Earl by his

Judgment that the plea in quashing of the Writ is insufficient. And that the Tenant further answer.

Tenant defends his right and vouch. and a Summons against the vouches.

his said Attorney, And the same *R. G.* and *K. P.* summoned, &c. came not, but the same *R. G.* cast for himself an *essoyn de malo veniendo*, here untill in *Craftino Aiar.* then next following. And the same day was given them to the said *E.* here, &c. At which day here came aswell the said *R. & F.* by the said *I. S.* their Attorney, as the same Earl by his Attorney aforesaid. And the same *E.* cast for himself an *essoyn de malo veniendo* against the same *R. & F.* in the same plea, and had thereof day by his *essoyn* here untill *xv. Pas.* then next following. And the same day was then given to the said *R. G.* who cast another *essoyn* here, &c. At which day here came aswell the same *R.* and *F.* by the said *I. S.* their Attorney, as the same *R. G.* and *E.* who cast for themselves, &c. by *W. E.* their Attorney. And the same Earl came not, but the said *A. B.* Attorney of the said *E.* cast for the said *E.* an *essoyn de malo veniendo*, against the same *R.* and *F.* in the said plea. And the same *E.* had thereof day by his *essoyn* here untill this day, to wit, in *Oct. Mich.* then next following. The same day was then given aswell to the said *R. G. & K. P.* as to the same *R.* and *F.* here, &c. And now here at this day, to wit, at the same *Oct. Sci. Mich.* came aswell the same *R.* and *F.* by the same *R. S.* their Attorney, As the same Earl by *A. B.* his Attorney. And the same *R. G.* and *K. P.* by the same *W. E.* their Attorney likewise came, and freely the Tenements aforesaid, with the appurtenances to the same Earl warrant, &c. And hereupon the same *R.* and *F.* demand against the same *R. G.* and *F.* Tenants by their warranty the Tenements aforesaid, with the appurtenances in form aforesaid, &c. And whereupon they say, that the said late Earl and *F.* were seised of the Tenements aforesaid, with the appurtenances in their demeasne as of fee and right in the right of the same *Fr.* in the time of peace in the time of *Eliz.* late Queen of England, taking thereof the profits to the value, &c. And so being thereof seised, levied the same fine and counts against the vouches as before against the Tenant. And thereof bringeth suit, &c. And the same *R. G.* and *K. P.* Tenants by their warranty by the same *W. E.* their Attorney come and defend their right when &c. And say that the said *R.* and *F.* their said Action against the said Earl ought not to have, they confesse the seisin of the said *R.* Earl of *Essex*, and of the said *Frances, prout*, &c. And the said fine was levied to the uses as in the said Count, &c. And say, that the said *Eliz.* was seised in tayl, the reversion to the same *F.* the same *Eliz.* marries *R.* the Earl of *Essex*, by which they were seised in tayl in the right of the Wife, the Earl of *Essex* dyes, the same *F.* marries the said Earl of *C.* by which they were seised of the reversion in fee in the right of *F. 8. Hill. 2. Jac.* for consideration of a certain Summe of money, A certain fine was levied between the said Earl the plaintiffe, and the said *R.* and *F.* the deforceants of the Lands in demand amongst other things, and the proclamations made duly according to the course of fines, by which fine the said

Essoyn cast by one of the vouches, the same day is given to the other vouches.

Attorney of the Tenant is *Essoyned*.

Vouches enter into warranty.

Count against the vouches.

Vouches plead in barr.

Earl *R.* was seised of the reversion in fee; And the said Countesse *R.* and *Eliz.* were seised in tayl of the reversion unto the said Counts of *R.* in fee expectant *Mense Mich. 2. Jac.* another fine was levied between *F. G.* and *T. S.* plaintiffs, and the said Earl of *R.* and *Eliz.* his wife of the said Lands in demand, with other proclamations accordingly, unto the use of the said *Eliz.* and her heirs for such a time, whereby the said *E.* of *R.* and *Eliz.* were seised in fee in the right of *Eliz.* Earl of *R.* dyeth, *Eliz.* dyeth without issue, And the same Lands descend unto the said *R. E.* and *Lisle*, Cozen and heir of the said *Eliz.* to wit, son of *H. S.* Knight, Son of the said *P. S.* Knight, father of the said *Eliz.* whereby the said *R.* thereof Tenant enters, and was and is thereof seised in fee; Judgment if action against the said Earl.

Not comprised to part. note the form.

And the same *R.* and *F.* from his Action against the said Earl of *L.* ought not to be barred, because he saith that as to 72. Acres of Land, with the appurtenances in *w. S.* and *M.* parcel of the lands in demand, are not comprised in the said Fine levied by the said *R.* and *F.* unto the said Earl of *R.* And as to the residue of the Lands in demand in *E.* and *S.* say that the said fine levied by the same *R.* and *F.* unto the said Earl of *R.* was levied as to the third part of the said residue of the Lands in demand in *E.* and *S.* unto the use of the Earl of *R.* and his heirs for the life of the said *F.* And as to the other two parts of the said residue of the lands in *E.* and *S.* the same Fine was levied to the use of the said *F.* and his heirs, and pray judgment and seisin of the Lands in demand. And the same *R. G.* and *K. P.* As to the 72. Acres in *w. S.* and *M.* which are comprised in the Fine aforesaid *Prout.* &c. And of this they put themselves upon the Countrey. And the said demandants likewise. And as to the Plea, to the residue of the said Lands in demand in *E.* and *S.* that the fine in the replication was levied as to the third part unto the said *R.* Earl of *R.* and his &c. And traverseth, that the said fine was levied as to the third part in *E.* and *S.* unto the use of *R.* Earl of *R.* or his heirs for life of the said *F.* and his heirs, and traverseth, that the said fine as to the same 2. parts in *E. w.* and *S.* was. And say, that the fine in the said replication was levied to the use of *F.* and his heirs *prout.* &c. as the demandants have alledged, several issues upon the several traverses. And a *ves fac* awarded 8. *Hill.* of the neighbourhood of *w. S. M. E.* and *S.* Another *ves fac.* awarded *re. Crastino. Trind. 14. plur.* awarded *re. Crastino. Aiar. 14. Jac.* And the imparlance was continued upon the Roll of the *habeas corpora* untill *Ost. Mich. 15. Jac.* At which day the demandants tenant and vouches by their Attorneys and the Jurors appear, and are sworn. And as to the first issue as to the 72 acres of Land in *w. S.* and *M.* are comprised in the said Fisse *prout* the vouches have alledged. And as to the second issue for the third part &c. in *E.* and *S.* say, that before the said fine was levied by the said *R.* and *F.* unto the said Earl of *R.* the same *R.* and *F.* were seised

Rejoynder.

Surrejoynder.

H. 13. J.

of

of the third part of the said Mannor of *R.* with the appurtenances, and of the third part residue of the said Lands and Tenements mentioned in an Indenture shewed to the said Jurors in evidence, between the same *R.* and *F.* of the one part, And the same *R.* Earl of *R.* of the other part, dated 17. Jan. 17. *Jac.* except one Mes. &c. mentioned in the same Indenture. And the same Lands in *E.* and *S.* contained in the same Indenture for the life of the said *F.* for her dower of such Lands. And that the said Earl of *R.* and *Eliz.* his wife, in the right of his wife were seised of the Mes. &c. and of the same Lands in *E.* and *S.* in fee tayl, to wit, unto the said *Eliz.* and her heirs of her body issuing, the reversion thereof to the same *F.* and her heirs expectant. And that neither the same *F.* or the same *R.* and *F.* in the right of *F.* were otherwise, or in any other manner seised at the same time of making of the said Indenture, of any other estate in the same Mes. &c. or of the same Lands in *E.* and *S.* or in any parcel thereof, which Indenture was made for money; And shews the Indenture in these words. And further, that the said Earl of *R.* and *Eliz.* were seised of the reversion unto the said *F.* and her heirs expectant, as in the fine in the said second issue between the said Earl of *R.* plaintiff, And the said *R.* and *F.* deforceants, with the proclamations aforesaid, was levied *prout*, &c. And that there was not any agreement between the same *R.* and *F.* And the aforesaid Earl of *R.* to declare the use of the fine, but the said Indenture. And as to the third issue they say, that the said *R.* and *F.* were seised of the third part of the Mannor of *R.* and of the third part residue of the Lands and Tenements mentioned in the Indenture aforesaid (except the Messuage called *V.* and the said Lands in *E.* & *S.* specified) in the Indenture for life of the said *F.* for the dower of the said *F.* in the same Lands. And that the said Earl of *R.* and *Elizabeth* were seised of the said Messuage called *V.* and of the same Lands in *E.* and *S.* in fee tayl, to wit, unto the said *Elizabeth*, and unto the heirs of her body the remainder unto the said *F.* and her heirs expectant. And thereupon found as before, and the Indenture in these words. And the Fine levied with proclamations. And that there was no money to declare the use of the Fine, but only the same Indenture.

But if upon the matter by the said Jurors, as to the second issue found, that the said Fine in the 2. issue mentioned by the same *R.* and *F.* unto the said Earl of *R.* as to the third part of the lands aforesaid, in the said demand in *E.* and *S.* in form aforesaid levied, was levied to the use of the said Earl of *R.* and his heirs for the life of the said *F.* the Jury pray advice of the Court. And if, they find for the demandant; and if not, they find for the Tenant. And the Jury find for the other issue that day was given to the parties untill 8. *Hill.* 15. *Jac.* And thereupon continued until 8. *M.* 17. *Jac.* At which day here came aswell the said *R.* and *F.* by the said *J. S.* their Attorney. As the said *R. G.* and *K.* Tenants
by

Judgment.

Mercy.

Mercy.

The Jury as it
was entered.

by their warranty, by the said *R. C.* their Attorney. And hereupon the said *R.* and *F.* say, the said *E. Lisle* is now Earl of *Leic.* And that the same *R. G.* and *K.* do not gainsay but confesse it to be true, whereupon all and singular the premisses aforesaid being seen, and by the Justices here fully understood, it seemeth to the same Justices, that the said Fine in the said second issue specified by the same *R.* and *F.* to the same *R.* Earl of *R.* as to the third part of the Tenements aforesaid, with the appurtenances in *E.* and *S.* aforesaid, above demanded, in form aforesaid levied, was had and levied to the use of the said Earl and his heirs, for and during the natural life of the said *F.* as the same *R.* and *F.* have above alleadged. And further it seemed to the same Justices here that the said Fine in the said third issue mentioned by the same *R.* and *F.* to the said *R.* Earl of *R.* in form aforesaid levied, as to the said two parts of the Tenements aforesaid with the appurtenances residue, in *E.* and *S.* aforesaid, above demanded had; was had and levied to the use of the said *F.* and his heirs, as the same *R.* and *F.* have above alleadged. Therefore it is considered that the same *R.* and *F.* recover their seisin against the said Earl of *L.* of the aforesaid 2. parts of the Tenements aforesaid, with the appurtenances in *E.* and *S.* aforesaid. And that the said Earl have of the lands of the said *R. G.* and *Q.* to the value &c. And the same *R.* and *K.* thereof in mercy, &c. It is also considered that the same *R.* and *F.* shall take nothing by their Writ aforesaid as to the said 72. Acres of Land, with the appurtenances in *W.* and *S.* and *M.* aforesaid, parcel of the Tenements aforesaid, above in form aforesaid demanded; wherein it is found by the Jury aforesaid, the same 72. Acres of Land, with the appurtenances in the said Fine, in the aforesaid first issue, mentioned by the same *R.* and *F.* to the same *R.* Earl of *R.* in form aforesaid levied, to be contained. As to the said third part of the Tenements aforesaid, with the appurtenances in *E.* and *S.* aforesaid, whereof the same *E.* and *K.* are in form aforesaid acquitted, but be in mercy for their false claim therein. And that aswell the said *E.* of *L.* as the same *R. G.* and *K.* go thereof without day. And a Writ of seisin of the 2. parts aforesaid is awarded *re. 8. Hill. Error*; the Jury was between *R. B.* Knight, otherwise called, &c. and *F.* his Wife demandants, and *R. G.* and *K. P.* Gent. whom *R. S.* Knight, Earl *Lisle*, vouch to warranty. And who warrant 3. Messuages, &c. with the appurtenances in *E. S. K. S. M.* and *S.* of a plea of Land is respited untill 15. *Pas.* by *M. 14. Ja. rot. 1623.* and by *P. 15. Ja. rot. 22:*

Formdon

Formdon in Discendre.

M. 14. H. 6. Rot. 104. Henster. Norff. ss. R. A. and C. his Wife by R. M. and A. his Wife H. H. and I. his Wife and I. B. and A. his Wife by I. H. their Attorney, demand against G. H. 1. Mess. 46. Acres of Land, &c: with the appurtenances in W. I. and T. which P. C. late Parson of the Church of W. gave to C. B. and the heires of his body issuing. And which after the death of the said C. B. and W. Son and Heire of the said C. B. to C. the Wife of Robt. Eliz. A. Johan. and Ann. Sisters, & co-Heires of the said W. ought to descend by forme of the said gift, &c.

And the said G. in his proper person cometh and defendeth the right of the same C. Eliz. A. Jo. and A. &c: And as to the messuage aforesaid with the appurtenances voucheth thereof to warrant W. D. W. G. and E. K. summoned in the County aforesaid by Ayde of the Court, &c: And as to the Land, Meadow, and Moore of the tenements aforesaid with the appurtenances, the same G. saith *quod Actio non*, because he said that one W. S. of B. in the County of N. Esquire, the brother of the same C. Eliz. A. I. and A. who's heires they are by deed indented, dated upon Thursday after the Feast of St. L. An. 10. H. 6. sealed gave and granted to the same G. the Land, Meadow, and More in fee, and bound him and his heires to warranty, And with this that the said G. saith that the said W. was seised of a severall sheep pasture in I. in the Towne of I. in the County of S. in his demesne as of Fee simple, and of such his estate afterwards died without heire of his body begotten, after whose death the same pasture with the appurtenances descended to the same C. the Wife of Robt. Eliz. A. I. and A. as Sisters and heires of the same W. whereupon the same R. and C. his Wife, S. E. R. A. H. I. I. B. and A. as in the right of the same C. Eliz. A. I. and A. are, and at the day of the purchasing of the original writ aforesaid, were seised in their demesne as of fee as Sisters and coheires of the said W. C. And saith that the said Pasture is the equall value of the Land, Meadow, and Moore aforesaid, by the same writ above demanded with the appurtenances. And this, &c: Judgment if Action, &c: against the said deed and warranty conteyned in the said deed, with this that they have sufficient by hereditary descent in forme aforesaid, in this behalfe ought to have, &c.

Voucher to part.

Warranty with assents for thereof due.

And the same R. C. his Wife S. Eliz. R. A. H. I. I. B. and A. say that the said G. to be vouched to such warranty as to the said Mess. ought not to be admitted, nor the same demandments, from the said Action as to the Land, Meadow, and Moore aforesaid, in the said tenements residue against the same G. above demanded with the appurtenances, by anything by him therein alleaged ought not to be barred because as to the said vouching they say that at the Parliament of R. late King of England, the second after the Conquest held at Westminster An. 2. for that complaints were made to the said late King, that many people of the Realme of England, as well great as small, having right and true titles, as well to Lands, Tenements, and Rents, as in other personall Actions, were unjustly delayed of their right and in their Actions, for that the occupiers or defendants, who are lusteyned and maintained within their Walls, do commonly make gifts and feoffments of their Lands and Tenements, which were in debate, and other goods to divers Lords and Peeres of this Realme, against whom the said prosecutors for the grievances to them done, cannot or dare not commence their Sutes. And also it was complained on the other part that many times many are disseised of their Tenements and Estates. And after such disseisors have made divers Alienations and feoffments sometimes to the Lords and Peeres of this Realme for their maintenance to be had. And sometimes

A special Count Plea to the voucher upon the Statute of 2. R. 2.

Formdon in discendre.

to more perions of whom the disseised cannot have notice to the end to delay and deferre by such frauds the same disseised & other demandments and their heires from their recovery to the great detriment & oppression of the people. It is ordained and established that thenceforth no gift or feoffment of Lands, Tenements, or Goods, shall be made by such fraud, or maintenance. And if any such should be made, they should be held for nothing, and of no value. And that afterwards the disseised should have their recovery against the first disseisors, as wel of Lands and Tenements, as of their double damages, no respect had to such Alienations, so that the disseised may begin their Suites within a yeaere after the disseisin made. And it is further ordained and assented unto, that the same statute shall take place in every other Action or Plea of Land, where such feoffements are made by fraud or collusion to have their recovery against the first feoffor. And saith that the same *W. D. W. G. and E.* whom, &c: nor any of their Ancestors ever had or have any thing in the messuage aforesaid with the appurtenances, unlesse by the gift and feoffment of the said *G.* made to the same *W. D. W. G. and E.* who were then of great power in their Country, and to other Lords and Peeres of the Realme of England, of whom the said *R. C.* his Wife *S. Eliz. R. A. H. I. I. B.* and *A.* cannot have notice, to the end, to prolong and deferre by such fraud, the same *R. C.* his Wife and others, and their heires of their recovery aforesaid, and saith that the said *G.* from the time of the gift, and feoffment aforesaid, and alwaies afterwards received, and yet receives the issues and profits coming out of the messuage aforesaid, and so saith that the gift and feoffment aforesaid, in forme aforesaid made for nothing, and of no value by the same statute, ought to be adjudged, without this that the said *W. D. W. G. and E.* or any of their Ancestors at any time had any thing in their demeayne reversion; or in service, in the Lands and Tenements aforesaid, after the same time, in the same writt contained. And this they are ready to verifie, whereupon they pray judgment, if the same *G.* his said voucher in this behalfe ought to have, &c: And as to the said 76. Acres of Land, 18. Acres of Pasture, and 50 Acres of Moore, with the appurtenances against the same *G.* by the said writt above demanded; with the appurtenance, the same *R. C.* his Wife, *S. Eliz. R. A. H. I. I. B.* and *A.* for that that the severall Pasture for sheep, is not of the equall value of the same Lands, Meadows, and Moores now demanded with the appurtenances by 100s. yearly, for Plea, further say, that the said *W. T.* gave the Lands in exchange with the said *G.* for the said severall sheeps Pasture, &c: in *I.* with condition, that if the said severall sheep Pasture be recorded by any of the heires of the said *G.* by any writt in any of the Kings Courts by issue tried by the oath of 12. honest men without fraud, that then it shall be lawfull for the said *W. T.* and his heires to reenter into the said Messuage and Lands, notwithstanding the said Deed, and Seisin thereupon, and sheweth the said exchange of the said severall sheep-Pasture, with the said condition. And saith further that the said severall sheep-Pasture is the same, and said that the said *T.* died, seised of the said severall Pasture, after whose death for that the said *Mess. &c:* with the appurtenances to the same *C.* Wife of *Robt.* and others, her Sisters were entayled in forme aforesaid, by the exchange aforesaid, they disagreed, and the possession of the said severall sheep-Pasture altogether waived, and never occupied the same, or rook from thence any profit without this that they were seised of the same Pasture otherwise then as in forme aforesaid. And this they are ready to verifie whereupon they pray Judgment, if they by pretext of the descent of the said severall sheep-Pasture which descent by the Law of the Land, upon the said *C.* Wife of *R. Eliz. A. I. I.* and *A.* in their lives, after the death of the said *W. T.* their brother whose heires they are fell from their said Action as to the said 76. Acres of Land, &c: with the appurtenances of the same Tenements above demanded residue ought to be barred, &c:

Travers

As to the same warranty with Afferts, saith that they were not of equall value, and that they were given in exchange upon condition to be enjoyed accordingly against his heires.

And

And the same *G.* as to the *Mess.* aforesaid with the appurtenances, whereunto the said *R.* and *C.* his Wife and the others have not interpleaded thereof the voucher aforesaid, neither by the statute or common Law prayerth Judgment and the voucher, &c. And as to the other Lands, saith that *W. T.* was seised of the pasture aforesaid, and sheweth the discent to the demandants as Sisters and coheires, and saith that one *T. H.* after that discent occupied the same pasture, and by the command of the same *R. C.* and the others, which his Cattle did, ear, tread down, and consume, and that the Sisters were seised of the said pasture with the appurtenances in fact as heires of *T.* And this &c: And pray Judgment, &c: that the Plaintiffs may be barred, &c: the demandants lay that they were not seised at all of the said pasture. And demurr upon the replication to the Counter Plea, which is not adjudged.

T. 21. *Jac. Rot. Suffex ss. W. G.* Esquire by *R. H.* his Attorney demandeth against *R. G.* gent, the moyety of the Mannor of *T. C.* with the appurtenances in *T.* of which moyety of the said Mannor with the appurtenances, one *R. G.* deceased in his life-time was seised in his demaine as of fee, and to being seised after the 4. day of *February, An. 27. H. 8.* by his certaine Indenture sealed with his Seal between the same *R. G.* deceased, and certaine *I. A.* gent. *I. B.* gent. and *I. S.* made as well for and in consideration that the same moyety of the Mannor aforesaid should continue in the blood and name, and for the preferment of the heires males, of the body of the said *R.* deceased, lawfully begotten, and of such brothers and kindred, afterwards in the same Indenture particularly named, as for the brotherly love naturall affection, and intimate bounty which the same *R.* then bare towards his brothers, and other persons in the same Indenture afterwards mentioned, covenanted and granted for himselfe, his heires executors and Administrators, to and with the same *I. A. I. B.* and *I. S.* their heires executors and Administrators, that the same *R.* deceased, and his heires immediately after the sealing and delivery of the same Indenture, should stand and be seised of the said Moyety of the Mannor aforesaid with the appurtenances to the use of the said *R.* deceased, and to his heires males of his body begotten; and for default of such heires then to the use of the said *P. G.* brother of the said *R.* And the heires males of his body, lawfully begotten; and for default of such heires then to the use of *R. G.* another of the brothers, of the said *R.* deceased, and the heires males of his body lawfully begotten, and for default of such heires to the use of *T. G.* another of the brothers of the said *R.* deceased, and the heires males of his body begotten, and for default of such heires then to the use of *W. G.* and *S.* and the heires males of their bodyes lawfully begotten, and for default of such heires to the use of *I. G.* and *A.* and the heires of their bodyes lawfully begotten, and for default of such heires to the use of *W. G.* and *S.* and to the heires of their bodyes lawfully begotten, and for default of such heires of *I. G.* brother of the said *R. G.* or *H.* and the heires males of his body, lawfully begotten, and for default of such heires to the use of *I. G.* another of the Sons of the said *Richard* and the heires of his body lawfully begotten, and for default of such heires to the use of *S. G.* the Elder, of *C.* and the heires males of his body lawfully begotten, and for default of such heires to the use of *T. G.* of *L.* and the heires males of his body lawfully begotten, by virtue whereof and by force of a certaine Act, &c: 4. *Febr. An. 27. H. 8. de usibus in possessionem transfere*nd held, and made the same *R.* deceased, was seised of the said Moyety of the tenements aforesaid, with the appurtenances in his demaine as of fee tayle, to wirt to him and his heires males of his body, lawfully begotten, the Remainder thereof, for default of such issue to the same *P.* and the heires males of his body, lawfully begotten, the remainder thereof to the said *T.*

Speciall writte of Formdon in disceudre upon an Indenture to uses after the Statute of 27. H. 8. But the writte was abated by plea as followeth, because it is in disceudre, where it ought to be in remainder.

Formdon in Discendre.

and the heires males of his body, lawfully begotten, the remainder thereof to the said *W. G.* and *S.* and the heires males of their bodies, lawfully begotten, the remainder further as is above limited, in forme aforesaid belonging; And which after the death of the said *R.* deceased, *P. R. T.* and *W. G.* of *S.* to the same *W.* now demandant Son and heire male of the said *W. G.* of *S.* aforesaid ought to descend by forme of the Indenture aforesaid, and by force of the same Statute, for that the same *R.* deceased *P. R.* and *T.* died without issue male of their bodies begotten. And whereupon they say that the said *R. G.* deceased in his life-time, was seised of the Moyety, of the Mannor aforesaid, with the appurtenances in his demeasne, as of fee, and so being thereof seised, after the said 4th. day of *February, An. H. 8. 27.* to witt the 30. day of *April Anno Regis. Eliz.* between the same *R. G.* of the one part, and the same *I. A. I. B.* and *I. S.* of the other part, made aswell for and in consideration, that the moyety of the Mannor aforesaid, with the appurtenances should continue in the blood and name, and for the preferment and promotion of the heires males of the body of the said *R.* deceased, begotten, and of such brothers and kindred of his afterwards in the same Indenture particularly named as for the brotherly love, naturall affection and intimate bounty, which the said *R.* then deceased, bare towards his brothers and other persons, in the same Indenture afterwards mentioned, covenanted and granted for himself, his heires, executors, and Administrators, to and with the same *I. A. I. B.* and *I. S.* their heires, executors, and Administrators, that the same *R.* deceased, and his heires immediately after the sealing and delivery of the said Indenture should stand and be seised of the moyety of the Mannor aforesaid, with the appurtenances, to the use of the said *R.* deceased, and the heires males of his body, lawfully begotten, and for default of such heires, then to the use of *P. G.* brother of the said *R.* deceased, and the heires males of his body lawfully begotten, and for default of such heires, to the use of *R. G.* another of the brothers of the same *R.* deceased, and the heires of his body begotten, and for default of such heires, then to the use of *T. G.* and other of the brothers of the said *R.* deceased, and the heires males of his body lawfully begotten, and for default of such heires, then to the use of *W. O.* of *S.* and the heires males of his body lawfully begotten, and for default of such heires, then to the use of *I. G.* of *A.* and the heires males of the same *I.* lawfully begotten, and for default of such heires, to the use of *I. G.* Son of *R. G.* of *H.* and the heires males of his body begotten, and for default of such heires to the use of the heires males of *J. G.* another of the Sonnes of the same *R.* of his body lawfully begotten, and for default of such heires to the use of *T. G.* of *C.* and the heires males of his body lawfully begotten, and for default of such heires to the use of *T. G.* of *L.* and the heires males of his body lawfully begotten, by verue whereof and by force of the Act in Parliament of the late King of England the 8. at Westminster aforesaid, the 4th. day of *February, Anno 8cc: 27. de usibus in Possessionem transferendis*, held, made and provided the same *R.* deceased was eied of the same Moyety of the Mannor aforesaid with the appurtenances in his demeasne as of fee taylor, to witt to him and his heires males of his body lawfully begotten, the remainder thereof, for default of such issue to the said *P.* and the heires males of his body lawfully begotten, the remainder thereof, for default of such issue to the said *R.* and the heires males of his body, lawfully begotten, the remainder thereof to the same *T.* and the heires males of his body lawfully begotten, the remainder thereof to the said *W. G.* of *S.* and the heires males of his body, lawfully begotten, the remainder thereof, further as is above limited in forme aforesaid belonging, and which after the death, &c: for that &c: and thereof bringeth Suite, &c.

And

And the same *R.* by *I. W.* his Attorney defendeth his right, when &c: And prayeth the hearing of the originall writt, which being read and heard the same *R.* non tenant prayeth Judgment of the said writt because he saith that that writt is vicious, and not according to the course and forme of the Register brought, because in the same writt appeareth, that the said *W.* claimeth the tenements aforesaid as heire male in remainder, after the death of the same *R. G.* deceased *P. G. R. G.* here now to witt. And which after the death of the said *R.* deceased *P. R. T.* and *W. O.* of *S.* to the same *W.* now demandant as Son and heire male of the body of the same *W. G.* of *S.* begotten ought to descend, for that the said *R. P. R.* and *T.* died without heire male of their bodies issuing, by the law of the land, and according to the course and forme of the Register it ought to be, and which after the death of the same *R.* deceased, *P. R. T.* and *W. G.* of *S.* now demandants as to the Son and heire, male of the body of the same *R. G.* of *S.* aforesaid ought to remaine, for that the same *R. P.* and *T.* died without heire male of their bodies issuing, and this he is ready to verifie. Whereupon, for that the said *W.* now demandant, purchased his said writt in Descender, whereas it ought to have been purchased in the Remainder, the same *R.* now Tenant, prayeth Judgment of that writt, &c:

Reg ster. f. 343. a. b. and 2. o. H. 139. a. Fitz h. na. bria. 118. b. c 219. 11. h. b. 21. a. 148. Register 244. 241. 18. Eliz. Dier. 349. 399. h. 5. Jo. Rot. 25. 41. Sims case, Coke 81. r. and 89. B. case and fol. 88.

T. 22. Jac. Rot. 71. *Brownlow* amongst the pleas of Land, Not ff, *R. P.* Gent. by *T. W.* his Attorney demandeth against *S. Q.* 3. Acres of Land and six Acres of pasture, with the appurtenances in *G. nere G.* which *R. H.* after the 4. day of February, Anno, H. 8. 27. gave to *M. T. W. W. W. G.* and *T. T.* to hold to them and their heires, to the use of *R. H.* and the heires of his body lawfully begotten, and for default of such issue, the Tenements aforesaid with the appurtenances, to remaine to *I. P.* and the heires males of the body, of the same *I.* lawfully begotten, and for default of such issue, the remainder thereof to *T. P.* and the heires males of the body of *T. P.* lawfully begotten, and which after the death of the same *R. I.* and *T. P.* to the said *Rich.* Son and heire, male of the body of the same *T. P.* lawfully begotten, ought to remaine by forme of the said gift, and by force of a certaine statute in the Parliament of H. 8. Anno 27. 4. February, aforesaid late made and provided, for that the same *R.* without heire male of his body, and the said *I.* without heire male of his body, lawfully bogotten, died, and whereupon he saith that the said *R. H.* was seised of the Tenements aforesaid, with the appurtenances in his demesne as of fee, and being so thereof seised after the said 4th. day of February, Anno H. 8. 27. held the Tenements aforesaid, with the appurtenances to the same *M. T. W. W. W. G.* and *T. T.* to hold to them and their heires for ever, to the use of the said *R. H.* and the heires of the Body, of the same *R. H.* lawfully begotten, and for default of such issue, the Tenements aforesaid, with the appurtenances, to remaine to the same *I. P.* and the heires males of the body, of the same *I.* lawfully begotten, and for default of such issue, the remainder thereof to the said *T. P.* and the heires males of the body of the same *T. P.* lawfully begotten, by which gift, and by force of the said Statute *de usibus in possessionem transferend.* made and provided, the same *R.* was seised of the Tenements aforesaid, with the appurtenances in his demesne, as of fee and right, by forme, &c: In the time of peace, in the time of the Lady, the Queen *Eliz.* late &c: taking thereof the profits, to the value, &c: And which after the death of the same *R.* for that the said *R.* died without heire male of his body, remained the right by forme, &c: to the said *I.* and th heires males of his body begotten, whereby the same *I.* into the Tenements aforesaid, with the appurtenances entred, and was thereof seised in his demesne. as of fee and right by forme, &c: in the time of peace, in the time of *Eliz.* late Queene, &c: taking thereof the Profits to

Count. inform-
don in Revers.
brought by
him in 2. Re-
mainder upon
a gift, after
the Stat. of uses
Spec. breife
and Count.
wide Statute
limitation, 21.
Ja. Reg.

Formdon in Remainder.

the value, &c.: And which after the death of the same *I.* for that the same *I.* died without heiremale of his body begotten, remained the right by forme, &c. to the same *R.* who now demandeth as Son and heir male of the same *T.* and which after the death, &c. And thereof bringerh Suit, &c.

T 26. *Eliz. Rot. 1701. S.* against *G.* in Formdon the Tenant pleads *non tenure*, and after issue joyned, prayeth respit to plead untill his full age. And he was respited.

Abatement
for that upon
prayer of view
day was given
from 15. Mar-
tini usq. Cro.
Trin. where it
ought to have
been given
untill 9q. *Pas.*
So that the
writt was dis-
continued.

M 33. and 34. *Eliz. Rot. 122. s. Scot. Westminster P. F. T. S. Esq.* by *A. B.* his Attorney demandeth against *R. F. Esq. 40. Mes. 20. Cor.* &c. by forme, &c. and the same *R. F.* by *T. C.* his Attorney cometh and defendeth his right when, &c. And saith that the said Originall writt of the Plea aforesaid was retornable and retorned here *Tres. Trin. A. Regina. 32.* at which day the same *R. F.* essoynd himself against the same *R. S.* in the same Plea. And had day therein by his *Essoyne* here untill 15. *Martini* then next following, at which day here came as well the same *S. T.* by the same *A. B.* his said Attorney, as the same *R. F.* by *T. C.* his Attorney whereupon the same *R.* then in the same Court here prayed view of the tenements aforesaid, with the appurtenances. And it was then granted unto him by the Court, & day thereof here by the Court was given to the same parties, here untill *Craffin. Trin.* then next following; whereas according to the Law of the Land, day thereof ought to have bin given to the parties aforesaid, unto 9q. *Pas.* and not further, and so the same *R.* for that the continuance of the same writt of view was not made untill the said Easter Term, but the same *E.* Terme of the proces and continuance aforesaid is omitted, saith that the said originall of the same *J. S.* was altogether discontinued, and yet is discontinued and this he is ready to verifie: whereupon he prayeth Judgment of the writt, &c. And the same *T. S.* prayeth imparlance untill 8. *Hill.* & further imparlance until 15. *Pas.* at which day he came as well, &c. as &c. by their Attorneys aforesaid, & hereupon the said Declaration and writt of the same *T.* being seen, whereupon the same *T.* in form aforesaid declared, for that according to the course and form of the Register and by the order of the particulars in the same Register contained, the same words (*unum Cottagium*) ought not to be in the same writt. Therefore it seemeth to the Court here that the same writt is naught and vicious; therefore it is considered that the same writt be quashed, and that the same *T. S.* take nothing by the same writt but the same *R. F.* 20 thereof without day, &c.

Judgment
that the writt
be quashed for
that the word
Cottage was
in the same
writt.

Descender.

Formdon in
descender by
the heir after
partition made
between the
coparceners of
Lands intayl-
ed and Lands
in fee. *P. 28.*
and 29. *H. 8.*
Rot. 147. Judg-
ment for the
demandant
in this Form-
don.

Elsewhere as it appeareth in the Term of *St. Hill A. R. 26. H. 8.* it is thus contained Ebop ff. *H. C.* by *I. F.* his Attorney demandeth against *M. L.* widow and *I. F.* 5. *Mes. 12.* Tofts, 57. Oxegang of Land, 13. Acres of meadow, and 600. Acres of pasture with the appurtenances in *E. B. S.* and *G.* which *G. M.* Knight gave to *G. of S.* and the Heires of his body lawfully begotten. And which after the death of the same *G. & A. A.* the Son & Heirs of the same *G. & J.* Son & heir of the said *A.* and *Alice* one of the daughters and heirs of the same *I. Hal.* who held them as their purpart of the same 5. *Mes. 12.* Tofts, 57. Oxegang, & of other of Land, 12. Acres of Meadow, & 600. Acres of Pasture, Lands & Tenements, with the appurtenances by Partition, between the same *I. P.* Esquire and the same *A.* his wife and *R. E.* and *K.* his wife, Sister of the same *A.* Daughter and another of the Heires of the same *I.* thereof made happening and which to *Margaret* Daughter & heir of the same *A.* and

Rd.

Ra. Son and heir of the same *M.* and *W.* Son and heir of the said *Ra.* and *Geo.* Son and heir of the same *W.* and *W.* Son and heir of the same *G.* to the same *Hugh* as Son and heir of the same *W.* and Cozen and heir of the same *O.* ought to deicend by forme of the said gift. And whereupon he saith that *G. M.* Knight gave the Tenements aforesaid now demanded with the appurtenances, to the same *G.* of *S.* & to the heirs of his body lawfully begotten, in form as aforesaid, &c. By which gift the same *G.* of *S.* was thereof seised in his demeasne as of Fee and right in the time of peace in the time of *H.* late King of England the 3d. after the conquest, taking thereof profits to the value, &c. And from the same *G.* of *S.* descendeth the right by forme, &c. to one *Ade* as Daughter and heir, &c. And from the said *A.* the right descendeth by form, &c. to one *I.* as Son and heir, &c. And from the same *I.* the right descendeth by form &c. to one *A.* and *K.* as Daughters and Co-heirs of the same *I.* which said *A.* and *K.* after the death of the said *Jo.* into the same 5. Mes. 12. Tofts 57. Oxgang of Land, 12. Acres of meadow, and 600. Acres of pasture with the appurtenances. And also into three Mes. 6. perches, and the moyety of 6. perches of Land, with their appurtenances in *W.* and *B.* in the County of *W.* entered and were thereof seised to wit of the same 3. Mes. and 6. perches and the moyety of 6. perches of Land with the appurtenances in their demeasne as of Fee, & of the same 5. Mes. 12. Tofts 57. Oxgang of Land 3. Acres of meadow and 600. Acres of pasture with the appurtenances now demanded in their demeasne as of Fee and right by forme of the same gift. And the same *A.* and *K.* being so thereof seised, the same *A.* took to husband one *I. P.* Esquire. And the same *K.* took to husband one *R. E.* Esquire, by which the same *J. P.* and *A.* & *R.* & *K.* entered into all the Tenements aforesaid with the appurtenances & were thereof seised to wit of the 3. Mes. 6. perches & the moyety of 6. perches of Land with the appurtenances in their demeasne as of Fee and right, &c. And of all the same Mes. & tenements now demanded with the appurtenances in their demeasne as of fee and right by form, &c. in the right, &c. And the same *J. P.* and *A.* & *R.* & *K.* being so thereof seised partition between them of all and singular the same tenements with the appurtenances of the inheritance of the same *Jo.* was made the 18. day of *Octob.* *A. H.* late King of England, the 6. after the conquest 10th. at *E.* aforesaid in the same County of *E.* so that by that partition thereof between the same *J. P.* and *A.* And the same *R. E.* and *K.* made the tenements aforesaid, with the appurtenances were allowed and assigned as for the purpart of the same *A.* in allowance for the other said 3. Mes. 6. perches and the moyety of 6. perches of Land with the appurtenances for the purpart of the same *K.* by the same partition likewise allowed, by vertue of which partition the same *J. P.* and *A.* in the right of the same *A.* and the same *R. E.* and *K.* in the right of the same *K.* into the tenements aforesaid to them by the same partition allotted severally as is afore allotted entered and were thereof seised, to wit the same *I. P.* and *A.* of the same tenements, with the appurtenances above demanded in their demeasnes, of fee and right, in the right of the same *A.* by forme, &c. And the same *R.* and *K.* of the same 3. Mes. 60. perches and the moyety of 6. perches of Land with the appurtenances in their demeasnes as of fee and right, in the right of the same *K.* in the time of peace in the time of *H.* late King of England, the 6. after the conquest, taking thereof the profits to the value, &c. And from the same *A.* the right descendeth of the same tenements above demanded with the appurtenances to one *Margaret* as Daughter and heir, &c. And from the same *M.* the right descendeth by form, &c. to one *Ra.* as Son and heir, &c. And from the same *R.* the right descendeth by form, &c. to one *William.* and from the same *W.* the right descendeth by form, &c. to one *Geo.* as Son and heir, &c. And from the same *G.* the right descendeth by form &c. to one *W.* as Son and heir,

Count.

Partition.

Formdon in Descender.

heir, &c. and which after the death, &c. and thereof bringeth suit, &c. and the same *Margery* by *H. W.* her attorney cometh, and the same *I. F.* by *G. P.* his Attorney cometh and defendeth their right when &c. And the same *Margery* prayeth imparlance untill *15. Pas.* &c. The same day is given to the said *Hugh* here, &c. And the same *I. F.* saith that the said *Godfrey* did not give the tenements aforesaid above demanded with the appurtenances to the same *G. of S.* and the heirs of his body lawfully begotten, as the same *H.* by his writt and declaration aforesaid above hath supposed. And of this he putteth himself upon the Countrey: and the same *H.* likewise: therefore the Sheriff is commanded that he caule to come here in *Off. Sce. Trin. 12. &c.* by whom, &c. and who neither to recognize &c. because as well, &c. at which said *15. Pas.* here came as well the same *H.* as the same *Margery* by their Attornyes aforesaid, and hereupon the same *M.* prayeth further imparlance here untill *O. Trin.* the same day, &c. at which day here came as well the same *H.* as the same *M.* by their Attornyes aforesaid, & hereupon the same *M.* voucheth thereof to warrant *Hen. T.* let him have him herein in *Cro. Aiap.* and be summoned in the Countrey aforesaid by the aide of the Court, &c. The same day is given as well to the same *H.* as to the said *M.* here, &c. and at the same *Off. Sce. Trin.* here came as well the same *H.* as the same *M.* by their Attornyes aforesaid, & the Sheriff did not the writt, therefore as before *Vefac* retornable *Cro. Aiap.* at which day here came as well the said *H.* as the same *M.* by their Attornyes aforesaid, and as to the giving Summons to the said *H. T.* the Sheriff hath done nothing therein nor sent the writt thereof, therefore or before let the said *H. T.* be Summoned that he be here *15. Pas.* the same day is given as well to the said *H.* as to the said *Margery* here, &c. at which day here came as well the said *H.* as the said *Marg.* by their Attornyes aforesaid, and the same *Hen.* Summoned, &c. by *I. B.* his Attorney likewise came, and freely the Moyety of the tenements aforesaid, with the appurtenances to the same *M.* warranteth &c. and hereupon the same *H.* demandeth against the said *H.* tenant by his warrantty the moyety of the tenements afore aid, above demanded, with the appurtenances in form aforesaid, &c. and whereupon he saith that the said *G. M. Knight*, gave the whole tenements aforesaid with the appurtenances to the same *G. of S.* as above in the Declaration &c. and which after the death, &c. and thereof bringeth suite, &c. and the same *H. T.* tenant by his warrantty defendeth his right when, &c. and reserving to himself all and every advantages and exceptions as well to the writt as to the said Declaration prayeth imparlance untill *Off. Trin.* Afterwards proces being continued between the said *Hugh O.* & the same *I. F.* or the same Plea, is by the Jury put therein between them respited here untill in *Off. Sce. Mich. An. Dom Regis 28.* unlesse the Justices assigned to take the assises in the Countrey of *York*, by forme of the Statute, &c. upon *Thursday* at the Feast, &c. last past at the Castle of *Y.* in the Countrey aforesaid, shall first come before which said *Off. Sci. M.* the said plant was adjourned by writt of the said Lord the King of Common adjournment here untill in *Cro. Aiap.* then next following, and now here at this day came as well the same *H. C.* as the same *I. F.* by their Attornyes aforesaid, and the same Justices of assise before whom, &c. sent here their Record in these words afterwards at the day and place within contened before *C. I.* and *F.* to the same *C.* and *I. S.* Knight Justice of the said Lord the King assigned to take the assises in the Countrey of *Ek.* by forme of the Statute, &c. *hac vice* associated with the presence of the same *Jo.* not expected by verue of the writt of the said Lord the King *de finonovnes*, come the within named *H. C.* and the within written *I. F.* by their Attornyes above specified, and the Jurors of the Jury whereof mention is within made some of them being called came, and some of them came not, and some of the same Jury now appearing, to wit *R. H. Gent. R. L. Esq. and T. W. Esq.* are sworn upon that

The one tenant prayeth imparlance, the other pleads *non de dit* and thereupon issue.

Further imparlance.

Voucher and Summons awarded retornable *Cro. Aiap.*

The *Vefac* continued to the same day.

An other Summons awarded.

The Vouchee appeareth and entreth into warranty.

Count against the vouchee

Spec. imparlance.

Ni pri.

Adjournment.

The Jury remains for default of the hundred and a further continuance,

that Jury, and the residue of the Jurors now also appearing to wit *T. B. Gent. W. B. Gent. G. B. T. B. and I. W. Gent.* for that they have nothing within the hundred of *B.* within which, &c. Therefore the same Jury is further respited here untill *15. Pas.* unlesse the Justices of the said Lord the King assigned to take the assizes in the County aforesaid, such a day at the City of *Torke*, in the County aforesaid shall first come for want of Jurors, &c. Therefore let the Sheriffe have the bodyes, &c. And at the same *Ost. Trin. Anno R. 28.* came here as well the said *H. C.* as the same *H. T.* Tenant by his warranty, by their Attorneys aforesaid, and hereupon the same *H.* reserving to him else all and every advantages, and exceptions as well to the writt as declaration aforesaid, prayeth further imparlance here, untill in *Cro. Aaip.* so the imparlance is continued untill *XV. Pas.* then next following, at which said *XV. Pas.* here came the said *Hugo* by his Attorney aforesaid, and the said Justices of Assizes, before whom, &c: sent here their Record in these words. Afterwards, the day and place within contained before *C. I. and F. F.* to the same *C. and I. Knts.* Justices of the said Lord the King assigned to take the Assizes in the County of *Eb.* by forme of the Statute, &c: *hac vice* associated with the presence of the same *I. S.* not expected, by vertue of the writt of the said Lord the King, *de finon omnes.* came as well the within named *Hugh* as the within named *I. F.* by their Attorneys, within written, and the Jurors of the Jury, whereof mention is within made, being called came, who to speak the truth of the within contained, being elected tried and sworne, say upon their oath, that the within named *G. M.* gave the Tenements within written, to the within named *G. of S.* and the heires of his body lawfully begotten, in manner and forme as the said *Hugh* by his writt and declaration aforesaid, against the same *I. F.* hath within alleadged, therefore it is considered, that the said *Hugh* recover his Seisin against the said *I. F.* of the moyety of the Tenements aforesaid, with the appurtenances above demanded, and the same *John* in mercy: &c: And also at the same *XV. nam. Pas.* here came as well the same *H.* by his Attorney aforesaid, And as to the other moyety of the Tenements aforesaid, with the appurtenances above demanded, offered himselfe the 4. day against the said *H. Tenant* by his warranty of a Plea, that he should be here at this day, to witt at the said *XV. Pas.* to answer the same *Hugh* in the same Plea, of the said other Moyety, of the Tenements aforesaid, with the appurtenances above demanded, and he being solemnly called, came nor, and he had therein day to imparle here untill this day (as it appeares above, &c: Therefore it is considered, that the said *Hugo* recover his Seisin against the said *Margery*, of the same other Moyety, of the Tenements aforesaid, above demanded. And that the same *Margery* have, of the Land of the same *Henry* to the value, &c: the same other Moyety. And the same heire in mercy, &c.

Continuance
of the Spec.
imparlance.

Eje. for the
demandant,
and judgment
accordingly.

the vouchee
makes default,
and thereupon
the demand-
ant hath
judgment as
gainst the Te-
nant, and the
Tenement o-
ver against the
said vouchee.
Spec. voc. to
warranty.

And the same *A.* by *I. B.* her Attorney, cometh and defendeth her right when, &c: And saith that there are in the County aforesaid, two Mannors called *M.* without addition *M. of M. vocat. M.* which is also called by the name of the Mannor of *M.* without addition, and saith that the Sheriffe of the County aforesaid, by vertue of the writt of the Lord the King caused view to be had to the same *Alice* of the said Mannor of *M. F.* whereof the same *A.* as Tenant thereof voucheth, of the same Mannor, called *M. F.* otherwise called *M.* without addition, to warrant *E. S.* Son and heire of *T. S.* late husband of the same *A.* summoned in the County aforesaid, by ayde of the Court, &c: when the same *E.* shall come to his full age, and for that the same *E.* is not of full age, prayeth that that complaint may remaine unto the full age of the said *E.* &c: And the same *W.* and *M.* say that the same *A.* ought not to be admitted to vouch, to warrant, because they say that neither the said *E. S.* whom &c: nor any of her Ancestors ever had

Formdon in Descender.

any thing in the same Mannor of *M. F.* otherwise called *M.* without addition with the appurtenances in their demeasne reversion or service, after the said gift or before, untill the day of purchasing, of the originall writt, of the same *W.* and *M.* to witt the first day of *M. Anno Rs. 20.* so that the same *A.* or any of her Ancestors (her Ancestors thereof) could infeoffe. And this they pray that it be inquired of by the Countrey, and the same *A.* likewise Therefore, *xij &c.* *Note.*

Receipt of the
fence, upon
the ground
cape, in a
formd in deon-
scender.

ss. **A.** by her Attorney offered her selfe the 4th, day against *H.* of a Plea of one Mes, &c: which the same *A.* in the Court of the King, here claymeth as her right against him, and against *E.* his Wife by writt, of the said Lord, the King *de forma donationis in descender.* And he come not, &c: And as well he, as the same *E.* have made at another time default here, to witt such a day last past, afterwards they had otherwise appeared here, to witt such a day, &c: so that it was then commanded the Sheriffe that he should take the Tenements aforesaid, with the appurtenances into the hands of the said Lord the King, and that he Summon the same *H.* and *A.* that they should be here at this day, to witt such a day, to hear thereof the Judgment, &c: And the Sheriffe now returneth that he took, &c: And that he summoned, &c: And hereupon the same *E.* came here into Court in her proper person. And saith that the Tenements aforesaid with the appurtenances are her right, whereupon for that she came before Judgment ready to answer the same *A.* therein, and to defend her right, prayeth that shee for the default of the same *H.* her husband, may not lose her right thereof, but be admitted to defend her right therein. And she is admitted, &c: And hereupon the same *A.* demandeth against the same *E.* the Tenements aforesaid, with the appurtenances, which *E.* gave to *I. P.* and *A.* his Wife, and the heires of the bodyes, of the same *I.* and *A.* issuing. And which after the death of the same *I.* and *A.* and *W.* the Son of the same *I.* and *A.* and *Agnes* daughter of the same *W.* to the same *A.* Son of the said *Agnes* and Cozen, and heirof the same *I.* and *A.* ought to descend by forme of the gift, &c: And whereupon the saith that the said *C.* gave to the said *I.* and *A.* and to the heires of the bodyes of the same *I.* and *A.* issuing the Tenements aforesaid, with the appurtenances, by which gift the same *I.* and *A.* were thereof seised in their demeasne as of fee and right by forme, &c: in the time of peace, in the time of *E.* late King of England, the third after the Conquest, taking thereof the Profits to the value, &c: And from the same *I.* and *A.* the right descendeth by forme, &c: to one *Walter* as Son and heire, &c: And from the same *W.* the right descendeth by forme, &c: to one *Agnes*, as daughter and heire, &c: And which after the death, &c: And thereof bringeth Suite, &c.

Count in a
formdon in
Reverter by
the heire.

T. 12. Jac.
71.

ss. **I. P. Knt.** by *R. I.* his Attorney demandeth against *I. A.* of *W.* and *W.* *D.* of *H.* 50. Acres of Land, with the appurtenances in *W.* and *H.* which *I. P. Knt.* the Father of the said *I. P.* demandant, whose heir he is gave to *I. C.* and *A.* his Wife, and the heires of the bodyes of the same *I. C.* and *A.* issuing, and which after the death of the same *I. C.* and *A.* and *Jo.* Son and heire of the same *I. C.* and *A.* to the said *I. P.* Son of *I. P.* ought to revert, by forme of the said gift, for that the said *I. F.* Son of the said *C.* died without heires of his body begotten, And whereupon he saith that the said *I. P.* the Father, &c: was seised of the said 50. Acres of Land, with the appurtenances in his demeasne, as of fee and right, in the time of peace, in the time of the Lord &c: late King of England, taking thereof the Profits to the value, &c: and from the same *I. C.* and *A.* the right descendeth by forme, &c: to one *John* as Son and heire of the same *I. C.* and *A.* and from the same *I.* the Son, &c: for that he died without heire of his body, issuing

issuing the right did retort, &c: to the same *I. P.* the Father, &c: As to the donor, &c: And from the same *I. P.* the Father the right descendeth to, *I. P.* as Son and heire, &c: And which after the death, &c: for that, &c: And thereof he bringeth Suite, &c.

And the same *I.* and *W.* by *F.* their Attorney come and defend their right when, &c: And say that the same *I. P.* Son of *I. P.* *Actio non*, because they say that the same *I. P.* Son of *I. P.* cannot be an heire, for that he is a Bastard, and was borne at *P.* in the County of *C.* And this they are ready to verifie where when and as the Court shall consider thereof, whereupon it is not intended that the same *I. Son of I. P.* his said Action in this case against them ought to maintayne, &c.

And the same *I.* Son of *I.* saith that he by the said objection from having his said Action, ought not to be barred, because he saith that he is legitimate and not a Bastard, as the same *I.* and *W.* above, objected against him. And this he is ready to verifie where and when, and how the Court shall consider, &c: And the same *I.* and *W.* likewise. And because the cognizance of their cause belongeth to the Ecclesiasticall Court, Therefore publick proclamations is made, that all persons which pretend to themselves any interest, to object against the same *I. Son of I. P.* who pretends himselfe to be legitimate, may follow.

To the Bishop of *C.* ordinary of the same place called *P.* to whom the writt to certifie the truth of the bastardy aforesaid is directed, to make their alleagations and objections against the same *I. Son of I. P.* as the Ecclesiasticall law shall require. And let the venerable Father in Christ, *James* by the grace of God, Cardinall and Arch Bishop of *York*, Primate of *England*, and Chancellor of the Lord the King of *England*, with the intention, that thereupon the like Proclamation may be made in the Chancery of the said Lord the King by three Moneths at one time, in every Moneth. And that the Chancery, the Proclamations, so thereof made, make to appear here in *Cro. Martini*, that one other the like Proclamation may be hereof made, and then to send to the Ordinary of the place, the writt of Certificate, of the truth, of the issue aforesaid there enjoyned, here to be made according to the forme of the statute of the Lord *H.* late King of *E.* the 6th. after the Conquest Anno IX, thereof made and provided the same day, is given as well to the said *I. Son of I. P.* as to the same *W.* and *W.* here, &c: At which day here came as well the same *I. Son of I. P.* as the said *W.* and *W.* by their Attorneys aforesaid, and the same Cardinall and Chancellour made appeare to the Justices here, that the proclamations in the Chancery aforesaid, upon the said Certificate to writt one Proclamation the 8th. day of *July* last past, another the 21 of *October* then next following, and the 3d. the 9th. day of *November* then next following, were made according to the forme of the Statute aforesaid, and that the same Justices may cause to be done, what is just in this behalfe, another proclamation is thereof made in forme as aforesaid, commanding *C. Bishop* &c: Ordinary of the same place of *P.* that such persons as will object against the same *I. Son of I. P.* in forme as aforesaid, be admitted to come before him, and others being called, whom to him in this behalfe, it shall seem meete to be called, he diligently inquire the truth of the premises, and further asking therein, what belongeth to his pastorall Office in this behalfe, he make to appeare *Tres. Pas.* whether the same *I. Son of I. P.* be legitimate or a bastard, by his letters Patents closed, &c: The same day is given to the parties aforesaid here, &c: At which day here cometh the said Plaintiffe by his Attorney aforesaid, and the same Bishop sent by verue of the command of the said Lord, the King to him in this behalfe directed, and by Authority of Ordinary calling before him, in that behalfe to be called, caused to be made a diligent and faithfull Inquisition, of and upon the truth of the thing,

Formdon in Descender.

and of all, and singular the premises, by which rightly and lawfully taken, it is found, and to him it appeareth evidently, that the same *I. Son of I. P.* is a bastard, and not legitimate, as the same *I.* the demandant above alleadged, therefore, &c: And if it be in an action of Tre passe, then so. As the same *H.* hath above alleadged, whereby the same *H.* damages by the Law of the Land, by occasion of the trepasse aforesaid against the same, ought to recover, &c: But because it is unknown, what damages, &c.

Abatement for Part,

T. A. voucheth who present enters into the warranty for 1 Acre to another part he voucheth *T. I.* within age, and prayeth the plaint may cease until age and to another part he vouches *I. N.* to the residue he voucheth *W. C.* summoned in two Countyes.

Demurrer to the first plea in abatement.

Counterplea to first the Voucher.

Speciall Counterplea to 2. vouchers that none of their Ancestors unless the said *I. R.* the Grand-Father who jointly with others had an estate in fee, &c.

P. 12. *H. 7. Rot. 308.* And the same *R. M.* by *E.* his Attorney cometh and defendeth his right when, &c: And as to the said Chafe, saith that the same Chafe is and at the day of purchasing of the originall writ of the same *R. W.* and from the time, whereof the memory of man is not to the contrary, was parcell of the said Mannor of *B.* and so the same Chafe by the same writt, against the same *R.* is twice demanded. And this hee is ready, &c: whereupon he prayeth judgment of that writt, &c: And as to one Acre of Moore, parcell of the said Mannor of *D.* with the appurtenances the same *R.* voucheth thereof to warrant *T. A.* who is present here in Court, in his proper person, and freely the same one Acre of Moore with the appurtenances to him warranteth, &c: And as to the third part of 9. Acres of Moore, parcell residue of the same manner, with the appurtenances, the same *R.* voucheth thereof to warrant *R. I.* as Cozen and Heire of *R. H.* to witt the Son of *G.* the Son of the same *R. I.* Grand-Father, &c: being within age Summoned in the County of *Yorke*, when he doth come to his full age by Ayde of the Court, &c: And because the same *Robt. Cozen*, &c: is within age, prayeth that the said plaint, as to the said third part, may remaine unto the full age of the said *Ro.* &c: And as to the residue of the said 9. Acres of Moore, the same *R. N.* voucheth thereof to warrant *I. M.* Esq. *T. S. Clark*, and *H. R.* summoned in the Countyes of *Yorke*, and *Nott.* by Ayde of the Court, &c: And as to the whole residue of the same Mannor of *D.* with the appurtenances the same *R. N.* voucheth hereof to warranty *W. C.* Esq. summoned in the County of *G.* and *N.* by Ayde of the Court, &c: let them be here in *O. Sci. M.* the same day is given to the parties aforesaid here, &c.

And the same *R. W.* as to the same Plea, of the said *R. N.* as to the Chafe aforesaid above in abatement of the said writt pleaded, saith that he unto that plea, hath no need, nor by the Law of the Land is bound to answer, and this he is ready to verifie, whereupon he prayeth Judgment, and Settle of the Chafe aforesaid, with the appurtenances, for default of a sufficient answer in this behalfe, to him to be adjudged, &c: And as to the same, first voucher of the same *R. M.* as to the same Acre of Moore, whereof the same *R.* above voucheth, to warrant the same *T. A.* the said *R. W.* saith that the same *R. N.* unto such voucher, to warrant, ought not to be admitted, because he saith that neither the same *T. A.* whom, &c: nor any of his Ancestors ever had any thing in the same Acre of Moore, with the appurtenances, neither in Demealne Fee, Reversion, nor Service, after the said gift, and before the day of purchasing of the originall writt of the same *R. W.* to witt the 14. day of *May Anno. R. 10.* so that the same *R. M.* or any of his Ancestors thereof, they could infeoffe, and this he prayeth that it being inquired by the Countrey, and the same *R. M.* thereof likewise, and as to the said second, vouching of the said *R. M.* as to the third part of the same 9. Acres of Moore, whereof the same *R. M.* voucheth the same *R. I.* Cozen, &c: thereof to warranty the same *R.* saith that the said *R. M.* ought not to be admitted to vouch such warranty thereof, because he saith that neither the same *R. I.* whom, &c: nor any of his Ancestors ever had any thing in the said third part, with the appurtenances after the said gift, and

and before the day of purchasing of the originall writt, of the same *R. W.* afore said, unlesse the said *R. I.* Grand-Father, &c: who never had any thing in the said part, with the appurtenances, unlesse joyntly with *I. S. Knt.* and *I. C. Knt.* of the gift and feoffment of *G. N. Knt.* to the same *R. I.* Grand-Father, &c: *I.* and *I. C.* and their heires thereof made; which tate thereof the same *R.* Grand-Father, &c: *I.* and *I. C.* in the third part afore said, may joyntly continue, during the whole life of the same *R. I.* Grand-Father, &c: And the same *R.* afterwards of such his estate therein died seised, and the same *I.* and *I. C.* survived the same *R.* and were solely seised of the same third part, with the appurtenances in their demesne, as of fee by the right of Accrewer, and this he is ready to verifie, whereupon he prayeth Judgment and Seisin of the same third part, with the appurtenances to him to be adjudged, &c: And as to the third voucher of the same *R. N.* as to the same residue, of the said 9. Acres of Moore parcell of the said mannor of *D.* with the Appurtenances, of which residue the same *R. N.* above vouched the same *I. N. T. S.* and *H. R.* thereof to warranty, the same *R. W.* saith that the same *R. N.* ought not to be admitted, to be vouched to warrant, because as to the said third part of the same residue, with the appurtenances, the same *R. W.* saith that the said voucher hath nothing, &c: and issue thereupon. And as to the moyety of the residue, of the said 9. Acres of Moore; with the appurtenances, remaining the same *R. W.* saith that the vouchee had nothing, &c: and thereupon issue, &c: And as to the whole residue of the said 9. Acres of Moore, with the appurtenances, the same *R. W.* saith that neither the said *H.* nor any of his Ancestors ever had any thing in the same residue of the same moyety, of the said residue, of the said Mannor of *D.* with the appurtenances in demesne, Reversion or Service, after the said gift, and before the day of purchasing of the originall writt afore said, so that the same *R. N.* or any of his Ancestors, they could thereof in feoffe, and this likewise they pray, that it be inquired by the Country, and the same *R. N.* thereof likewise, &c:

General Counterplea to the 3 voucher.

The like Counterplea to the 4.

Joinder in demurrer to the plea in Abatement.

Enjoinder to the said special Counterplea of the second voucher;

The demandant demurres to the said rejoinder.

And the same *R. N.* as to the same plea of the said *R. W.* as to the Chase afore said, with the appurtenances above pleaded in the replication, for that he sufficient matter in the same plea, in abatement of the said writt, to quash the same writt hath above alleadged, which he is ready to verifie, which said matter the same *R.* doth not gainsay nor in any wise answer thereunto prayeth Judgment & that that writt may be quashed, &c: And as to the same plea of the same *R. W.* as to the said third part, of the same 9. Acres of Moore with the appurtenances, of which third part, the same *R. N.* above vouched, the same *R. I. Cozen* &c: thereof to warrant above in Counter-pleading, pleaded the same *R. N.* saith that he by any thing in the same plea before alleadged, from vouching the same *R. I.* to warranty thereof ought not to be barred, because he saith that the said *I.* the Grand-Father, &c: *J. I.* and *I.* were seised joyntly of the same 9. Acres of Moore, intirely with the appurtenances, whereof the same *R. N.* of the third part thereof, above voucheth the same *R. I. Cozen*, &c: to warranty, &c: in his demesne as of fee. And this he is ready to verifie, &c: whereupon he prayeth Judgment, and his voucher, and that the same plaint may thereof remaine unto the full age of the same *R. I. Cozen*, &c:

And the same *R. W.* as to the same plea of the same *R. N.* above in rejoyning, as to the same third part of the same 9. Acres of Moore, with the appurtenances, saith that the same plea in manner and forme afore said pleaded, is insufficient in Law to maintaine the same vouchee, to the warranty thereof, and that he to the same plea hath no need, nor by the Law of the Land is bound to answer, and this he is ready to verifie, whereupon as before he prayeth Judgment and Seisin of the same third part of the same 9.

Formdon in Descender.

acres of Moore with the appurtenances, for default of a Sufficient answer in this behalf to him to be adjudged, &c.

Joynder in
demurrer.

Continuance
of the issues
and demurrer
together.

Formdon in
Descender by
the husband
and wife heir
of the bro-
ther.

Voucher.

Vouchee
effoyne.

Count against
the Vouchet.

And the same *R. N.* for that he sufficient matter in the same Plea, by him above in rejoyning pleaded to warrant the Vouch of the said *R. I.* Cozen, &c. of the same third part of the same 9. acres of Moor with the appurtenances hath above alleadged which he is ready to verifie, which same matter the said *R. W.* doth not gainsay nor thereunto in any wise answer, as before prayeth Judgment and his Voucher, and that the same plaint as to the said third part, with the appurtenances, may remain unto the full age of the said *I. R. Cozen* & as to try all the issues aforesaid to be tryed by the Country above joynd, It is commanded to the Sheriff of the said County of *E.* that he cause to come here at the said *Ostab. Mich. 12. &c.* And because the Justices here will advise themselves of & upon all the premies whereupon the parties aforesaid have put themselves upon the judgment of the Court before they give their judgement, thereupon day is given to the same parties here, untill the said *Ostab. Stri. Mich.* of hearing therein their judgment, &c.

Etlewhere as it appeareth in *M. Ter. A. H. 8.* after the Conquest, 12. *Rot. 449.* It is thus contined *Herif. II. I. T. Knight and Margaret* his wife, by *R. B.* their Attorney demand against *J. H. Knight*, three Mes. &c. which *J. V.* and *R. T.* gave to *J. T.* the Son, and *Margery* his wife and to the heirs Males of the bodies of the same *Jo.* and *Ma.* issuing, And which after the death of the same *J.* and *M.* and *W.* Son and heir of the said *Margery* and *VV. T.* Son and heir of the said *VV.* and *Ade T.* brother and heir of the same *W.* Son of the said *Margery*, Son and heir of the same *Ade* as Cozen and heir of the said *W.* the Son, ought to descend by form of the said gift, &c. And whereupon they say that the same *I. V.* and *R. T.* gave the tenements aforesaid with the appurtenances to the same *I. T.* and *M.* his wife and the heirs Males of the bodies of the same *I.* and *M.* issuing, by which gift the same *I. T.* and *M.* were seised thereof in their demeaine as of Fee and right by form, &c. in the time of peace in the time of *H.* late King of England the 6. after the Conquest taking thereof the profits to the value &c. And from the same *I. T.* and *Margery* the right descended by form, &c. to one *W.* as Son and Heir, &c. And from the same *W.* the right descended by form, &c. to one *W.* as Son and heir, &c. and from the same *W.* the Son, descended the right by form &c. to one *VV.* as Son & heir, &c. & from the said *VV.* Son, &c. descended the right by form, &c. to one *Ade* as to the brother and heir, &c. and from the same *A.* descended the right, &c. by form, &c. to the same *Margaret* the wife of the same *I. T.* who now demandeth as Son and heir of the said *Ade* and Cozen and heir of the said *William* the Son by form of the gift, &c. And which after the death, &c. and thereof they bring suit, &c. And the same *I. V.* by *A. I.* their Attorney cometh and defendeth his right when, &c. And Voucheth thereof to warrant *I. G.* Clerke Son and heir of *R. G.* let him have him here *XV. Na. Hill.* by the ayde of of the Court, &c. And be summoned in the County aforesaid, and in the County of *L.* The same day is given to the parties above said here, &c. at which day here came as well the same *I. T.* and *Margaret* as the same *I. H.* by their Attornyes aforesaid, and the same *I. G.* summoned effoynd himself *de Malo veniendo*, against the same *I. T.* and *M.* in the same Plea, and had therein day by his Effoyne here untill this day to wit *XV. Trin.* then next following, &c. And now here at this day came as well the same *I. T.* and *M.* as the same *I. H.* by their Attornyes above said, and the same *I. G.* by *A. B.* his Attorney, likewise cometh, and freely the Mes. &c. with the appurtenances in form foresaid, &c. And whereupon they say that the same *I. V.* and *R. T.* gave, &c. as before, and which after the death &c. and thereof bringeth suit, &c. and the same *I. G.* tenant by his own warranty defends his right when, &c. And further voucheth thereof to warranty *T. S.* summoned in the County aforesaid, and in the County of *L.* &c. let him have him

here in *Cro. Sti. Martini* by ayde of the Court, &c. and summoned in the same County of *L.* the same day is given to the parties aforesaid here, &c. At which day the Plaint aforesaid was adjourned by writt of the said Lord the King *de Coi adjornamento*, here untill this day to wit in *Ost. Sti. Hil.* then next following, And here at the said *Ost. Sti. Hil.* came as well the same *I. T.* and *M.* as the same *I. G.* by their Attornyes aforesaid, and the same Sheriff of *L.* now retorneth here that the same *T. S.* whom, &c. is dead and the same *I. T.* and *M.* do well agree to it, whereupon the same *I. G.* tenant by his warranty revoucheth thereof to warrant *H. S.* Son and heir of *T. S.* summoned in the same County of *H.* and in the said County of *L.* by the ayde of the Court, &c. let him have him here in *Ost. Sca. Trin.* the same day is given to the parties aforesaid here, &c. at which day here came as well the same *I. T.* and *M.* as the same *I. G.* tenant by his warranty by their Attornyes aforesaid, and the same *H. S.* Summoned, &c. essoined himself *de malo veniendo*, against the same *I. T.* and *M.* in the same Plea, & had thereof day by his Essoyne here until unto this day to wit in *Cro. Aiar.* then next following and now hereat this day came as well the said *I. T.* and *M.* as the same *I. G.* tenant by his warranty by their Attornyes aforesaid, And the same *H. S.* by *A. T.* his Attourney likewise came, and hereupon the same *H. S.* prayeth licence thereof to imparle here in *Ost. Sti. Hil.* And hath it, &c. the same day is given to the said *I. T.* and *M.* as to the same *I. G.* tenant by his warranty here, &c. and so continues the imparlance untill *Tr. 17.* And now here at this day came as well the said *I. T.* and *M.* his wife as the same *J. G.* tenant by his warranty and the same *H. S.* by their Attornyes aforesaid and hereupon the said *H. S.* freely the Mes. &c. with the appurtenances to the same *I. G.* warranteth &c. and hereupon the same *I. T.* and *M.* demand against the same *H.* tenant by his warranty the same Mes. with the appurtenances in forme aforesaid, &c. and whereupon they say that the same *R. V.* and *R. T.* gave, &c. as before, and which after the death, &c. and thereof bringeth sute, &c.

Adjournment.

The Sheriff returneth that the last vouchee is dead & thereupon the tenant by warranty revoucheth.

The vouchee essoynes.

The vouchee appears and hath imparlance.

The vouchee enters into the warranty.

The same tenant pleads a release with a generall warranty therein in barr.

And the same *H.* tenant by his warranty defendeth his right when, &c. and saith that the said *I. T.* and *M.* his wife, their said action thereof against him ought not to have, &c. because he saith that one *I. T.* Gent. Uncle of the same *W. T.* Esq. Son of *William Cozen* of the same *M.* wife of the said *I. T.* whose heir he is the second day of *An. A. Rs. H. 7.* after the Conquest *primo*, at the Town of *Westminster*, in the County of *M.* by his, certain writing which the same *H.* tenant by his warranty with the seal of the said *I. T.* Sealed bringeth here into the Court the date hereof the same day and year remised, released, and for himself and his heirs for ever quit claimed to one *R. B.* being in full and peaceable possession and Seisin of the tenements aforesaid, with the appurtenances his heirs and assignes for ever, his whole right claim Interest, and demand, which he at any time had hath or in the future might have or in any manner should or might have of or unto the tenements aforesaid with the appurtenances, which at any time were of the same *H.* with in the same County, so that neither the same *I. T.* nor his heirs nor any other for him or in his name any right title claim interest or demand of or in the tenements aforesaid, with the appurtenances or in any parcell thereof for the future exact claim or challenge ought in any manner for the future, but from all actions of right title claim interest or demand thereof & from every parcell thereof should be ever excluded by the same writing, and the same *I. T.* and his heirs by the same writing the tenements aforesaid, with the appurtenances to the same *R.* his heirs and assignes against all people would warrant and for ever defend, as in the same writing it is more fully conteined, and the same *I. T.* afterwards died without heirs of his body begotten, after whose death the same warranty descended to the said *Mar.* wife of the same *J. T.* as Cozen and heir of the said *I. T.* the Uncle, to wit as the Son of *Ade* Brother of *William* Son

Formdon in Descender.

The demand-
ant confess-
eth the release
as it is plead-
ed.

Judgment
that he shall
take nothing
by his writt.

Formdon
Voucher.

The vouchee
effoynes.

Vouchee en-
ters into war-
ranty.

Count against
the vouchee.

The vouchee
voucheth
over.

The vouchee
effoynes.

Son of *William*, brother of the same *I. T.* the Uncle, youngest Son of the same *I. T.* and *Marg.* and this he is ready to verifie, whereupon; the prayeth Judg-
ment, if the same *I. T.* and *M.* his wife, against the said writing of the same *I. S.*
the Ancestor of the same *Margaret*, whose heir she is, he same warranty there-
in in that behalf contened, his said Action against them ought to have, &c.
And the same *I. T.* and *M.* his wife say that they cannot gaynlay the writ-
ting of the same *I. T.* aforesaid, but that the same *I. T.* by the same writing re-
mited, released, and alwayes for himself and his heirs for ever quit claimed to
the same *R.* being in full and peaceable possession and *Seisin* of the tenements
aforesaid, with the appurtenances and to his heirs and assignes for ever, his
whole right claime Interest, and demand, which at any time he hath had,
or in any wise in the future ought to have of in & to the tenements aforesaid,
with the appurtenances by the name of the Mannor of *G.* with the appurte-
nances in the County of *H.* nor but that the same *J. T.* and his heirs by the
writing aforesaid, the tenements aforesaid with the appurtenances to the said
R. his heirs & assignes against all people would warrant & defend, nor but that
the said *I. T.* afterwards died without issue of his body begotten, nor but that
the warranty aforesaid after the death of the same *J. T.* descended to the same
Marg. the wife of the said *I. T.* as Cozen and heir of the said *I. T.* the Uncle; to
wit, as Son to *Ade*, brother of *W.* Son of *VV.* brother of the said *I. T.* the Un-
cle, youngest Son of the same *I. T.* and *Ma.* nor but that the same *I. T.* and *Ma.*
his wife from the action aforesaid against the same *H. S.* tenant by his war-
ranty of the tenements aforesaid, with the appurtenances may be barred, in
manner and form as the said *H. S.* tenant by his warranty hath above al-
leadged Therefore it is considered, that the said *I. T.* and *Marg.* his
wife, take nothing by their writt aforesaid, but be in mercy for their false
claime thereof, and the same *H. S.* tenant, by his warranty go thereof with-
out day, &c.

T 15. *H. 8. Rot. 15 6.* And the same *I. R.* by *J. F.* his Attorney
cometh and defendeth his right when, &c. And voucheth thereof the
warrant *I. I.* Clerk let him have him, here in *Cro. Aiar.* by the aide
of the Court, &c. and be Summoned in the County aforesaid, the same day
is given to the parties aforesaid here, &c. At which day here came as well
the same *I. H.* as the same *I. R.* by their Attornyes aforesaid, and the
same *J. J.* summoned, &c. essoined himself *de malo veniendo*, against the
same *J. H.* of the same Plea, and he had thereof effoine here unto this day
to wit 15. *Pas.* then next following, and now here at this day came as
well the said *I. H.* as the same *I. R.* by their Attornyes aforesaid, and the
same *I. I.* by *I. F.* his Attorney likewise came and freely the Mes. Land,
Meadow, Pasture, Wood, Furle, and Heath, aforesaid with the appurtenan-
ces to him warranteth &c. And hereupon the same *J. H.* demandeth against
the same *J. J.* tenant by his warranty the same Mes. Land, &c. with the
appurtenances in form aforesaid, &c. And whereupon he saith
that the same *W. G.* and *I. H.* gave, &c. as in the declaration, and which
after the death, &c. and thereof he bringeth suit, &c.

And the same *I. I.* tenant by his warranty defendeth his right when, &c.
and further voucheth thereof to warrant *I. H.* let him have him here in *Off.*
Sci. Mich. by the aide of the Court, &c. and be summoned in the County
aforesaid, the same day is given to the parties aforesaid here, &c. at which
day as before, and the same *I. H.* summoned, &c. was effoined, &c. and
had thereof day by his effoine here untill this day here to wit in *Off. Sci.*
Hil. then next following, And now here at this day came as well the said
I. H. as the same *I. I.* by their Attornyes aforesaid, and the same *I. H.* by
I. F. his Attorney likewise came, and freely the Mes. Land, &c. aforesaid,
with

with the appurtenances to him warranteth, &c: And hereupon the same *I. H.* demandeth against the same *I. H.* Tenant, by his warranty, the same Mes. Land, &c: with the appurtenances in forme aforesaid; &c: and whereupon he saith as before, and which after the death, and thereof hee bringeth Suite, &c.

Count. against
2. vouches.

And the same *I. H.* Tenant by his warranty defendeth his right when, &c: and further voucheth thereof to warrant *I. P.* let him have him here in *O. Sec. Trin.* by ayde of the Court, &c: and let him be Summoned in the County aforesaid, the same day is given to the parties aforesaid here, &c: at which day here came as well the same *I. Hill*, as the same *I. Hyne* Tenant by his warranty, by thir Attorneys aforesaid, and the same *I. P.* summoned, &c: essoined himselfe, *de malo veniendo*, against the same *I. Hill* of the same plea. And had thereof day by his essoine here untill in *Cro. Martini*, then next following, before which day the same plaint was adjourned by another writt of the said Lord the King *de Coi. adjournamento*, here untill this day to witt in *Ost. Sci. Hill*, then next following, at which said *Ost. Sci. Hill*, here came as well the said *I. Hill*, as the same *I. Hyne* by their Attorney aforesaid, and the same *I. P.* by *I. F.* his Attorney likewise came, and freely the Mes. Lands, &c: aforesaid with the appurtenances to him warranteth, &c: And hereupon the same *I. Hill*, demandeth against the said *I. P.* Tenant by his warranty the same Mes. Lands, &c: aforesaid with the appurtenances in forme aforesaid, &c: And whereupon saith that, &c: And which after the death, &c: And thereof he bringeth Suite, &c.

The 2. vouches
the vouches
over.

3. Vouches
essoine.
Adjournment.
The three
Vouches enter
into warranty.
Count. against
them.

And the same *I. P.* Tenant by his warranty defendeth his right when, &c: And further voucheth thereof to warrant *T. S.* let him have him here in *Ost. Sec. Trin.* by Ayde of the Court, &c: And be summoned in the County aforesaid, the same day is given to the parties aforesaid here, &c: before which day the same plaint was adjourned by the writt of the said Lord the King, *de Coi. adjournamento*, here untill this day, to wit in the morning of *St. John* the Baptiste then next following, and now here at this day came, as well the same *I. Hill* as the same *I. P.* Tenant, by his warranty by their Attorneys aforesaid, and the Sheriffe now retorneth, that the same *T. S.* is Summoned by *I. B.* and *W. P.* And hereupon the same *I. Hill* saith that the same *I. Hine* was a second time vouched to warrant in the same plea, whom *I. I.* Tenant, by his warranty vouched to warrant, and that he that warranted is dead, and prayeth a writt of the said Lord the King now directed to the Sheriffe of the County aforesaid, to resummon the same *I. I.* Tenant, by his warranty to be here, to heare the Record and proceedings in the same plaint. And also to revoke thereof the warranty of, &c: And it is granted to him retornable here in *Cro. Sci. Martini*, so that the same plaint then be there in the same state, wherein it was in the Court of the said Lord the King, here in *Ost. Hillar*, Anno &c: 16 at which day the same *I. I.* in the same Court of the King here appeared, and freely the Tenements aforesaid with the appurtenances to the same *I. I.* warranteth, &c: At which day, here came as well the said *I. Hill*, as the same *I. R.* by their Attorneys aforesaid, and the same *I. I.* resummoned and essoined himselfe, *de malo veniendo*. As before, &c: And had thereof day by his essoine here untill Easter-Terme then next following. And now here at this day came as well the said *I. Hill*, as the same *I. R.* by their Attorney aforesaid, and the same *I. I.* by *I. F.* his Attorney likewise come, and freely the Mes. lands, &c: with the appurtenances to him warranteth, &c: And hereupon the same *I. Hill*, demandeth against the said *I. I.* Tenant, by his warranty the same Mes. Land, &c: with the appurtenances in forme aforesaid, &c: And saith as before. And which after the death, &c: And thereof he bringeth Suite, &c.

The three
Vouches
vouch over.

Adjournment.

Summons re-
turned.

The demandant
allegeth the death
of two Vouches.
Resummons
awarded against
the first
Vouches, a re-
voucher if &c.

The first Vouches
appears,
essoined upon
the resummons.
he enters into
warranty, and
the demandant,
Count. against
him.

Formdon in Descender.

Count, in
Formdon, in
Descender af-
ter a Summons
against the
Voucher.

T. 20. *Eliz. Rot. 1049. ff. R. S.* by B. his Attorney demandeth against *W. P.* one *Mes. &c.* which *I. B. Clark*, and *W. B.* gave to *W. S.* and *M.* his Wife, and the heires of the body, of the same *W.* issuing; and which after the death of the same *W.* and *M.* and *W.* Son and Heire of the same *W.* and *W.* Son and heire of the same *W.* and *Jo.* Son and heire of the same *W.* to *Rich.* Brother and Heire of the same *I.* ought to descend by forme of the guist aforesaid, &c.

And the same *W. P.* by *I. L.* his Attorney cometh, who elsewhere voucheth to warrant *R. W.* who now by Summons in the County aforesaid, made by *I. L.* his Attorney cometh, and freely the Tenements aforesaid, with the appurtenances to him warranteth, &c: And hereupon the same *R. S.* demandeth against the same *R. L.* Tenant, by his warranty the Tenements aforesaid, with the appurtenances to the same *W. S.* and *M.* And the heires of the body, of the same *W. S.* issuing in forme aforesaid, &c: by which guist the said *W. S.* and *M.* were seised of the Tenements aforesaid, with the appurtenances in their demeasne, to wit the same *W.* as of fee and right, and the same *M.* as of her Francktenement, by forme, &c: in the time of Peace; in the time of *H.* late King of *England* the 5th. after the Conquest, taking thereof the profits to the value, &c: And from the same *W. S.* the right descended by forme, &c: to one *W. S.* as Son and Heire, &c: And from the same *W. S.* the right descended to one *I. S.* as Son and Heire, &c: And from the same *I. S.* for that he died without heire of his body issuing, the right descended by forme, &c: to the same *I. S.* who now demands as Brother and heire, &c: And which after the death, &c: And thereof he bringeth Suite, &c.

Formdon in
Descender by
the Husband
and Wife.

M. 19. and. 20. *Eliz. Rot. 1376. ff. Elsewhere* as it appeareth in *Mich. Terme, Anno Regina 18.* and 19. *Rot. 1218.* it is thus contained *Warr. ff. W. A.* and *I.* his Wife by *W. A.* their Attorney demand against *I. M.* 40. Acres of Land, with the appurtenances which *W. B.* and *I. B.* gave to *I. W.* and *C.* his Wife, and to the heirs of the bodies of the same *I. W.* and *C.* issuing. And which after the death of the same *I. W.* and *C.* and *W.* Son and Heire of the same *I. W.* and *C.* and *I.* Son and Heire of the said *W.* to the said *Isabell* Sister and heire of the same *I.* Son of *W.* ought to descend by forme of the said guist, &c: And whereupon they say that the same *W. B.* and *I. B.* gave the Tenements aforesaid, with the appurtenances, to the same *I. W.* and *C.* his Wife, and to the heires of the bodies, of the same *I. W.* and *C.* issuing in forme aforesaid, &c: by which guist the same *I. W.* and *C.* were seised of the Tenements aforesaid, with the appurtenances in their demeasne, as of fee and right in the time of peace, in the time of *H.* late King of *E.* the 6th. taking thereof the profits, to the value, &c: And from the same *I. W.* and *C.* the right descendeth by forme, &c: to one *I. W.* as Son and Heire, &c: And from the same *I. W.* for that he died without issue of his body begotten, descendeth the right by forme, &c: to the same *I.* who now demandeth as Sister and Heire, &c: And which after the death, &c: And thereof shee bringeth suit &c: And the same *I. M.* by *T. I.* his Attorney defendeth his right when, &c: And voucheth thereof to warrant *W. C.* summoned in the County of *S.* by ayde of the Court, &c.

Voucher.

Spec. Counter-
plea of the
Voucher.

And the same *W. A.* and *I.* say that the same *I. M.* ought not to be admitted to such warranty, because they say that they elsewhere to witt such a day and yeare brought another writt of the said Lady the Queen *de forma donationis in descender*, against the same *I. M.* and certaine *G. B. H. F. I. D.* and *T. Y.* of the Tenements aforesaid, with the appurtenances retorpable here *XV. Pas.* then next followings, which said writt depending the same *I. M.* of the same Tenements, with the appurtenances incoffed the same *W. C.* to hold to him and his heires for ever, By vertue of which scoffment the same *W. C.*

W. C. was theretofore seised in his demeaine as of fee, and afterwards the same *F.* the same writt depending at *S.* aforesaid died, by which the same *W. A.* and *Isabell* of fresh purchased that writt against the same *I. M.* and say that the same *W. C.* whom, &c: nor any of his Ancestors, whole heire he is at any time had any thing in the Tenements aforesaid, unlesse by the said seoffment, by the same *I. M.* to the same *W. C.* thereof in forme aforesaid, made in demeaine Reversion or Services, after the said gift, untill the same day of purchasing of his said first writt, so that the same *I. M.* or any of his Ancestors, he could thereof incoffe. And further the same *W. A.* and *I.* say that the said seoffment to the same *W. C.* of the Tenements aforesaid, with the appurtenances in forme aforesaid made was, by fraud and collusion between the same *I. M.* and the same *W. C.* before had to retard the same *W. A.* and *I.* in their Suite aforesaid, by the same vouchee, and this they are ready to verifie, whereupon they pray Judgment if the said *I. M.* ought to be admitted to vouch to warranty, &c.

And the same *I. M.* saith that the same Counter-plea of the same *W.* and *I.* above pleaded, to vouch to warranty the same *I.* is insuffici in law, to barr him the same *I.* from having his voucher, and that he to the same Counter-plea in manner and forme aforesaid pleaded, hath no neede, nor by the Law of the Land is bound to answer, and this he is ready to Verifie, whereupon for default of a sufficient answer to his voucher aforesaid prayeth Judgment, and that his voucher aforesaid may stand, &c.

And the same *W. & I.* joyne in demurrer, and pray Seisin of the Tenements aforesaid, with the appurtenances to him to be adjudged &c: & because, &c: noras yet &c: At which day here came as well the same *W. A.* and *I.* as the said *I. M.* by their Attorneys aforesaid, and hereupon the same *W. A.* and *I.* relinquish their Counter-plea aforesaid by them above to the said voucher pleaded and say, that they cannot gainesay, but that the same *I. M.* ought to be admitted to their voucher aforesaid. Therefore let the same *I. M.* have the same *W. C.* here in *Cro. Trin.* And that he be summoned in the County aforesaid by ayde of the Court, &c: The same day is given to the parties aforesaid here, &c: At which day here came as well the said *W. A.* and *I.* as the same *I. M.* by their Attorneys aforesaid, and the said *W. C.* summoned, &c: himselfe essoyned *de malo veniendo*, against the same *W. A.* and *I.* of the same plea. And had thereof day by his essoyn here, untill in *Cro. Aiar.* then next following, before which day the said plaint was adjourned, by writt of the said Lady the Queene, *de Coi. adjournamento*, here untill in *Cro. Martini*, then next following. And now here at this day, came as well the said *W. A.* and *I.* as the said *I. M.* by their Attorneys aforesaid, and hereupon the same *W. C.* by the same *I. T.* his Attorney likewise came, and freely the Tenements aforesaid, with the appurtenances to the same *I. M.* warranteth, &c: And hereupon the same *W. A.* and *I.* demand against the same *W. C.* Tenant by his own warranty, the Tenements aforesaid, with the appurtenances in forme aforesaid, &c: And whereupon they say that the same *W. B.* and *I. B.* gave the Tenements aforesaid, with the appurtenances to the same *I. W.* and *C.* his Wife, and to the heires of the bodies of the same *I. W.* and *C.* issuing in forme aforesaid, &c: by which gift the same *I. W.* and *C.* were seised of the Tenements aforesaid, with the appurtenances in their demeaine as of fee, and right by forme, &c: in the time of peace, in the time of *H. late King of England* the 6th, after the Conquest, taking thereof the profits to the value, &c: And from the same *I. W.* and *C.* the right descended by forme, &c: to one *W. W.* as Son and Heire &c: And from the same *W. W.* for that he died without heire of his body begotten, the right descended by forme, &c: to the same *I.* who now demandeth as Sister and Heire, &c: And which after the death, &c: And thereof shee bringeth Suite, &c: And imparlance by the vouchee,

Demurrer to the Counter-plea

Joynder in demurrer.

The Counter-plea waved, and the Voucher admitted.

Voucher essoyned.

Adjournment.

Count. against the Voucher.

Formdon in Descender.

Demurrer up-
on evidence.
Plur. ve fac.

T. 17. *Eliz. Rot. 820. ff.* At which day here came as well the same *R. H.* as the same *W. S.* Tenant by his warranty by their Attorneys aforesaid, and the Sheriff now retorneth the said writt of *Plur. ve fac* here *Xij. &c.* together with the Pannell of the names of the Jurors to the same writt annexed. And the Jurors therein impannelled, being called likewise came, who to speak the truth of the premisses, were elected tried and sworne, whereupon *N. B.* the Queenes Sergeant at Law, to prove the said issue on the behalfe of the same *Rich.* sheweth in evidence to the Jurors aforesaid that &c: And this he is ready to verifie, whereupon he prayeth Judgment, that the Jury aforesaid, their Verdict in this behalfe, for the same *R. H.* upon the premisses may give, &c. And *W. B.* Serjeant at Law, on the part of the same *W. S.* saith that the evidences aforesaid by the same *R. H.* in manner and forme aforesaid shewn, are insufficient, in Law to maintayne the issue aforesaid, joyned on the behalfe of the same *Rich.* and that he to the same evidences in forme aforesaid shewen, hath no need, nor by the Law of the Land, is bound to answer, and this he is ready to verifie, whereupon for default of sufficient evidences in this behalfe prayeth Judgment, and that the same Jury may be discharged of giving up their verdict upon the issue aforesaid, and that the same *R. H.* from having his said action against him, may be barred, &c.

And the same *R. H.* for that he sufficient evidences in Law, to maintayne the issue aforesaid, to the Jury aforesaid shewed, which he is ready to verifie, which said evidences the same *W. S.* doth not gainsay, nor any waies answer unto them, but refuseth to admitt of the verification, prayeth Judgment and Seisin of the Tenements aforesaid, with the appurtenances to him, to be adjudged &c: And that the same Jury may be discharged to give their verdict upon the issue aforesaid, &c: whereupon the Jury aforesaid, from giving of any verdict therein, by the Court here, by the consent of the parties aforesaid are discharged, &c: And becaute the Justices here will advise themselves of and upon the premisses, before they give judgment thereof, day is given to the parties aforesaid here untill in *Off. Hill.* of hearing thereof their Judgment, for that the same Justices here thereof, not as yet, &c.

Formdon in
Descender up-
on a spec. fe-
offment made
to uses made
to the feoffe in
tayle, since the
statute of uses
brought by
the Cozen and
Heire.

P. 17. *Eliz. Rot. 811. Suff. ff. T. W.* by *I. G.* his Attorney demandeth against *W. W.* two Mes. &c: of which *T. W.* late deceased, was seised in his demesne as of fee, and being so thereof seised after the 4th, day of *February, Anno 27. H. 8.* thereof infeoffed *E. S.* and *I. R.* to have and to hold the same Tenements with the appurtenances to the same *E.* and *I.* and their heires, for the use of the said *T. W.* late deceased, and the heires of his body issuing. And which after the death of the said *T. W.* late deceased, to the same *T. W.* now demandant, Cozen and Heire of same *T. W.* late deceased, ought to descend by forme of the Feoffment aforesaid, and by force of a certaine Act in Parliament, of the said late King at Westminster, in the Countrey of *Midd.* the same 4th, day of *February, Anno 27.* above said *de usibus in possessionem transferend.* held made, &c: And whereupon he saith that the same *T. W.* was seised of the Tenements aforesaid, with the appurtenances in his demesne, as of fee & being so thereof seised, after the same 4th day of *February, Anno 27.* above said to witt the 18. day of *December, Anno H. 8. 31.* of the same Tenements, with the appurtenances infeoffed, the same *E. S.* and *I. R.* to have, and to hold the same Tenements with the appurtenances to the same *E.* and *I.* and their heires to the use of the same *T. W.* late deceased, and the heires of his body begotten, by vertue of which feoffment, & by force of the same Statute, *de usibus in possessionem transferend.* the same *T. W.* late deceased, was seised of the Tenements aforesaid, with the appurtenances in his demesne, as of fee tayle to witt to him and the

the heirs of his body begotten, in the time of peace, in the time of *H.* late King of *England* the 8th, taking thereof the profits to the value &c: And from the same *T.* the right descendeth, by form, &c: to the same *T.* who now demandeth as Cozen and Heire, &c: to witt as Son and Heire of *VV.* *VV.* Son and Heire of said *T.* *VV.* deceased, and which after the death, &c: And thereof he bringeth Suite, &c.

T. 23. *Eliz. Rot.* 1602. *T.* 31. *Eliz. Rot.* 64. *T.* 40. *Eliz. Rot.* 95. Formdon in Descender brought by the Brother and Heire upon a feoffment made before the statute of Uses, spec. writ. *T.* 15. *Ja. Rot.* 81. *Brownlow Lincoln.* int. *S.* and *S.* such a spec. writ. Issue non feoffment.

Formdon, 2. fo. 2. ff. *Devon.* ff. *C. M.* Esq. by *A. VV.* his Attorney demandeth against *VV.* *S.* Esq. and *M.* his Wife, 3. Mes. &c: with the appurtenances in *S.* of which *I. M.* Esq. was seised of his demeasne as of fee, and to seised before the 4th day of *February*, Anno of the Reign of *H.* late King of *E.* the 8th, Dear Father of the Lady *Eliz.* Queen now, 27. thereof infeoffed *I. R.* &c: to hold the Tenements aforesaid, with the appurtenances to him and his heires, to the intent thereby, to fullfill the last will of the same *I. M.* By vertue of which feoffment the same *I. R.* &c: were seised of the Tenements aforesaid, with the appurtenances in their demeasne as of fee, to the use of the same *I. M.* and his heires, and the same *I. R.* &c: to the same use, being thereof as is premised, seised; the same *I. M.* such a day and yeare at *C.* in the County of *D.* made his last will in writing, and by the same, gave and bequeathed that the same *I. R.* &c: and their heires, after the death of the same *I. M.* should stand and be seised of the Tenements, aforesaid with the appurtenances to the use of *R. M.* Son of the said *I.* and the heires of the body of the said *R.* issuing, and the same *I. R.* &c: of the Tenements aforesaid, with the appurtenances, unto the use of the same *I. M.* and his heires, so as aforesaid being seised the same *I. M.* such a day and yeare, at *C.* aforesaid died, by vertue, whereof the same *I. R.* &c: were seised of the Tenements aforesaid, with the appurtenances to the use of the same *R. M.* and the heires of his body, issuing untill the same 4th. day of *February*, Anno 27. abovesaid, which day the same *R.* was of the Tenements aforesaid, with the appurtenances, seised in his demeasne, as of fee, taylor to witt to him, and the heires of his body issuing, by pretext of the feoffment, and last will aforesaid, and by vertue of a certain statute in the Parliament of the said late King, at Westminster, in the County of *Midd.* the same 4th. day of *February*, Anno 27. *de usibus in possessionem transferend.* held made and provided: And which after the death of the same *I. M.* *R. M.* and *I. M.* Sons and Heires of the same *R.* to the same *C.* Brother and Heire of the same *I. M.* Son of *R.* ought to descend by forme of the feoffment and last will aforesaid, and by force of the Statute in this case made and provided, and whereupon, &c.

Suff. ff. *R. C.* in his proper person demandeth against *J. F.* and *K.* his wife the mannor of *O.* with the appurtenances which *G. C.* after the 4. day of *February*, *A.* 27. *H.* 8. gave *J. C.* and *I. S.* and their heires to the use of the same *G.* for term of his life and after his decease to the use of *W. C.* and *A.* his wife, and the heires of the bodies of the same *W.* and *A.* issuing, and which after the deaths of the same *O. W.* and *A.* and *W.* Son and heir of the same *W.* and *A.* to the same *R.* Brother and heir after the Statute. Spec. briefe. Formdon in Descender by the heir of him in Remainder upon a gift made to uses after the Statute.

of the same *W.* and Son of the same *W.* and *A.* ought to descend by forme of the said gift, and by vertue of the Statute *de usibus in possessionem transferend.* made and provided, and whereupon he saith that the same *G.* after the 4. day of *Feb.* *A.* 27. above said gave the manner aforesaid with the appurtenances to the same *I. C.* and *I. S.* and their heires, to the use of the same *G.* for the term of his life, and after his decease to the use of the same *W. C.* the father and *A.* his wife, and the heires of the bodies of the same *W.* & *A.* issuing in forme aforesaid, by which gift and by force of the said Statute in the

Formdon in Descender.

the Parliament of the said late King *H. 8.* at *Westminster* in the County of Midd. 4. day of *Feb. A. 27.* above said *de usibus in poss. transferend.* held and made the same *G.* was seised of the mannor aforesaid with the appurtenances in his demesne as of freehold by form, &c. in the time of peace in the time of the said late King, taking thereof the profits to the value, &c. and which after the death of the same *G.* the right remained by form, &c. to the said *VV. C.* the Father, and *A.* and the heirs of the bodies of the said *VV.* and *A.* issuing: which said *VV.* and *A.* were seised of the tenements aforesaid with the appurtenances in their demesne as of fee & right by form, &c. and by force of the Statute aforesaid in the time of peace, in the time of *Ph.* and *Ma.* late King and Queen of England, taking thereof the profits to the value, &c. and from the same *VV.* and *A.* the right descendeth by form, &c. and by force of the Statute aforesaid to one *VV.* and *C.* as Son and heir, &c. And from the same *VV.* the Son, for that he died without heir of his body issuing, the right descended by form, &c. and by force of the Statute aforesaid to the same *Ra.* who now demandeth as Brother and heir, &c. and which after the death, &c. and thereof he bringeth suit, &c. and the same *I. F.* and *K.* by *F. S.* their Attornyes come and defend their right when &c. and say that the said *R.* *Alitio non* because they say that after the same gift in form aforesaid made the same *G. C.* was seised of the manner aforesaid with the appurtenances in his demesne as of frank tenement for term of his life, and the same *G.* being so thereof seised, the remainder thereof to the said *VV. C.* the Father and *A.* his wife, and the heirs of the bodies of the same *VV.* and *A.* issuing by form or the gift aforesaid in form aforesaid belonging the same *A.* at *C.* aforesaid died, and the same *VV. C.* the Father survived her, and was Sole seised of the remainder of the manner aforesaid with the appurtenances as of fee taylor by right of accrewer, &c. And the same *W.* being so thereof seised, and the same *G.* of the mannor aforesaid with the appurtenances in form aforesaid being seised, the same *G.* the first day of *Oct. A.* &c. at *O.* aforesaid surrendered to the same *W. C.* the Father his whole right title and interest which he then had in the manner aforesaid with the appurtenances unto which Surrender the same *VV. C.* then and there agreed, and into the mannor aforesaid with the appurtenances entred and was thereof seised in his demesne as of fee taylor to wit to him and the heirs of his body begotten, by form of the said gift and by force of the Statute aforesaid. And the same *VV. C.* so therefore being seised, levied thereof a certain fine in the Court of the said Lady the Queen now here to wit at *Westminster* in *Cro. Aiar. Alitio, Regin 7.* before *I. D. A. B. R. VV.* and *J. VV.* then Justices of the same Lady the Queen of the Bench here, and other faithfull people of the said Lady the Queen, then and there present, between one *I. D.* Esq. Plaintiff, and the same *VV. C.* the Father by the name of *VV. C.* &c. of the mannor aforesaid with the appurtenances amongst other things whereof, &c. as that which the same *R.* had of the gift of the same *VV. C.* the Father, and the same remised and quit claimed from himself and his heirs to the same *Ro.* his heirs for ever, And besides the same *VV.* granted for himself and his heirs that they would warrant to the same *R.* and his heirs the aforesaid mannor with the appurtenances against the same *VV. C.* the Father and his heirs, and against the heirs of the same *G. C.* for ever: which said syne in form aforesaid levied was levied to the use of the said *R. D.* and his heirs for ever, by vertue of which said syne the same *Ro.* into the Mannor aforesaid with the appurtenances entred and was seised of the Mannor aforesaid with the appurtenances in his demesne as of Fee, and the same *R.* being so thereof seised one *I. G.* Gent. such a day and year out of the Court of Chancery of the Lady the Queen at *Westminster* in the County of Midd. then being prosecuted a writ of the said Lady the Queen *de ingressum super decessum in se post.* against the same *Ro.* of the Mannor aforesaid

The tenant makes a title by syne and Recovery suffered by the heir in taylor to *R. D.* who infeoffed the Tenant.

Surrender by the tenant for life to him in Remainder in taylor.

Fine levied.

Writ of entry in *Le poss.*

saied with the appurtenances directed to the then Sheriff of the said County of G. by which said writt the same Lady the Queen now commanded the then Sheriff that the same Sheriff should command the same R. justly and without delay he should render to the same I. G. the Mannor aforesaid with the appurtenances which the same R. then claimed as his right and Inheritance, and into the which the same R. had no entry, &c. reciteing the writt and the return thereof, and that the same R. was summoned by H. H. and R. S. and hereupon the said demandant declaring against the said R. upon the said writt demanded against the same R. the Mannor aforesaid with the appurtenances, as his right and inheritance, &c. And into which &c. as in others, and the same R. by the said H. D. his Attorney cometh and defendeth his right when. &c. And vouched thereof to warranty the same VV. C. his Father summoned in the same County of S. let him have him here in *Oct. Hill.* then next following by the aide of the Court, &c. The same day was given to the parties in the same writt of entry nominated there, &c. At which said *Oct. Hill.* in the same Court here appearing as well the said demandant in his proper person, as the same R. by his Attorney aforesaid, and the said declaration against the same R. in forme aforesaid being made of new the same R. then eliewhere Vouched to warrant the same VV. C. the Father, who then by the Summons ro him in the County aforesaid made by T. L. then his Attorney in the same Court likewise came and freely the Mannor aforesaid with the appurtenances to the same R. warranty, &c. whereupon the same Demandant then in the same Court demanded against the same VV. C. the Father then tenant by his warranty, the mannor aforesaid with the appurtenances in form aforesaid, &c. And whereupon he said, &c. and vouched the Common vouchee, and so judgment and *Seisin*, and the return thereof, as by the same writt it was commanded him, &c. and the same J. F. and K. say that the same Recovery of the Mannor aforesaid with the appurtenances by the same I. G. against the same R. was had to the use of the said Robert and his heirs for ever, by pretext whereof and by force of the same Statute in the Parliament of H. the 8. *Ano. 27. de usibus in possessionem transferend* the same Robert was seised of the Mannor aforesaid with the appurtenances in his demesne as of Fee, and being so there-offeised, of the same Mannor with the appurtenances infeoffed the same I. F. and K. to have and to hold to the same I. and K. and their heirs for ever, by vertue of which feoffment, the same I. F. and K. were and yet are seised of the Mannor aforesaid with the appurtenances in their demesne as of fee, and this they are ready to verifie, whereof they pray judgment *Si Alitio. &c.*

Ought nor to be barred because he saith that well and true it is, that the same G. surrendered to the same VV. C. the Father his whole right title and interest which he had in the Mannor aforesaid with the appurtenances, as the same I. F. and K. have above alleaded, but the same R. further saith that the same W. C. the Father, being seised of the Mannor aforesaid, with the appurtenances in his demesne as of fee tayle in form as aforesaid, after the same Surrender of the same G. and before the same time of the levying of the fine aforesaid, of the same Mannor with the appurtenances infeoffed certaine A. I. and G. W. to have and to hold to the same A. I. and W. G. and their heirs for ever to the use of the same VV. C. the Son and heirs of his body lawfully begotten, and for default of such issue to the use of R. and the heirs of his body begotten, and for default of such issue to the use of W. C. the Son and his heirs for ever, by vertue of which Feoffment and by force of the Statute in the Parliament of the same late King H. 8. A. 27. above said *de usibus in possessionem transferend* held, made, the same VV. C. the Son was seised of the Mannor, to wit to him and his heirs of his body issuing the remainder thereof in form aforesaid belonging, and the same VV. C. the Son being so thereof seised, the Remainder thereof in form aforesaid

The demandant confesseth the Surrender by the tenant for life and that the tenant in tayle thereupon, and before the said fyne and recovery infeoffed his Son, and by the consent of his Son between them by his permission and the levying the said fyne, the said Son was disseised by the Cogni-

Formdon in Remainder.

aforesaid belonging the said *W. C.* the father after the said Feoffment as is premised made and before the levying of the said *Fyne* into the Mannor aforesaid with the appurtenances by the assent and consent of the said *W.* the Son and by his permission entred and was thereof by the permission of the same *W. C.* the Son tenant at will of the same *W.* the Son, and the same *W.* the Father being thereof by the permission of the said *William* the Son at the will of the said *W.* the Son tenant the same *fyne* of the said Mannor with the appurtenances between the same *I. D.* and the same *W. C.* the Father levied in forme as the said *I. F.* and *K.* have above alleadged, by colour of which said *fyne* the same *Robert* into the Mannor aforesaid with the appurtenances entred, and the same *W.* the Son him thereof disseised, and the same *Ro.* to therefore being seised after the said disseisin, the same *I. G.* prosecuted the same writt, *de ingressu sub disseisin in le post* in the same barr above specified against the same *Ro.* which said writt depending and before Judgment therein given, to wit the first day of *Decem. A. Regis. Eliz.* 8. the same *W. C.* the Son into the Mannor aforesaid with the appurtenances entred and was thereof seised in his demeasne as of fee taylor, to wit, to him and the heirs of his body issuing, and this he is ready to verifie: whereupon he prayeth judgment and *Seisin* of the Mannor aforesaid with the appurtenances, to him to be adjudged, &c.

The tenant
mayntaines
his Plea and
traverseth the
disseisin

And the same *J. F.* and *K.* as before say, that the same *W.* the Father was seised of the Mannor aforesaid with the appurtenances in his demeasne as of fee taylor, to wit, to him and the heirs of his body lawfully begotten by form of the said gift and by force of the Statute aforesaid, and so being thereof seised levied the same *fyne* in the Court here in the said *Cro. Aiar. An. Eliz.* 7. above said between the same *R. D.* & *W. C.* the Father of the Mannor aforesaid, with the appurtenances, &c. in his demeasne as of fee, and the same *R.* being so thereof seised, the said recovery against the same *R. D.* of the Mannor aforesaid with the appurtenances in forme aforesaid had, was to the use of the same *R.* and his heirs by pretext whereof and by force of the Statute aforesaid the same *R.* was seised of the Mannor aforesaid with the appurtenances in his demeasne as of fee, and so being thereof seised of the same Mannor with the appurtenances infeoffed the same *J.* and *K.* to hold to the same *J.* and *K.* and their heirs for ever, by vertue of which feoffment the same *J. F.* and *K.* were and yet are seised of the Mannor aforesaid with the appurtenances in his demeasne as of fee, as they, &c. without this that the same *R. D.* disseised the same *W.* the Son of the Mannor aforesaid with the appurtenances as the same *R.* hath above alleadged, and this, &c. as before pray judgment and that the same *R.* may be barred from having his said Action against him, &c.

Travers.

Issue.

And the demandant saith that the said *R. D.* did disseise, &c. of the Mannor aforesaid with the appurtenances *prout*, &c.

We have inspected the Record of the Lord the King, in the Common Bench, in the Treasury, within the Abby of Westminster, under the Custody of the Lord Treasurer and Chamberlain, there remaining, the Tenor of which Record follows in these words.

Pleas at Westminster, before *W. of F.* and his associates Justices of the Lord the King of the *B.* of the terme of *St. Michael, Anno R. Edw.* the 3d. after the Conquest, *Anglia* 45, and of the Kingdom of France, 32. *Rot.* 566

Formdon in a
gift in
Frank-mari-
age against se-
veral tenants.

L *Eic. ff. R. S.* and Margery his Wife, elsewhere as it appeareth, in the terme of *St. Mich. A. Reg. Ang. nunc.* 42. *Rot.* 218. by *I. H.* their Attorney

torney demand against *M. E.* the elder, one Acre of Land, with the appurtenances in *S.* and against *M. E.* the younger, two Acres of Land with the appurtenances in *Eadem Villa.* And against *T. L.* and *Agnes* his Wife, two Acres of Land, with the appurtenances. And against *A. W.* one Toft, four Acres of Land, and one Acre of Meadow, with the appurtenances in *Eadem Villa.* And against *I. F.* one Acre of Land, and one Acre of Meadow with the appurtenances in *Eadem Villis.* And against *V.* and *T.* and *A.* his Wife, one rood of Pasture, with the appurtenances in *Eadem Villa,* which *VV.* Son of *W. De. F. De. S.* gave to *VV.* Son of *Henr. de Stotton* in free marriage with *I.* his Siter, and which after the death of the said *VV.* Son of *Henr.* and *Inett.* and *VV.* Son and Heire of the said *VV.* Son of *H.* and *H.* and *Inett.* the said *Margery,* Daughter and Heire of the same *VV.* Son of *VV.* ought to descend by form of the gift aforesaid, and whereupon they say that *W.* Son of *VV.* gave the Tenements aforesaid, with the appurtenances to the said *VV.* Son of *VV.* in free marriage, with the same *Inett* his Siter, by which gift the same *VV.* Son of *Henr.* and *Inett.* was thereof seised in his demesne, as of fee and right, by forme, &c: in the time of peace, in the time of the Lord *E. King of England,* Father of the said King, now taking thereof the profits to the value, &c: And from the same *VV.* Son of *H.* and *Inett* descended the right by forme, &c: to one *VV.* as Son and Heire, &c: And from the same *VV.* descendeth the right by forme, &c: to the same *Margery,* who now demandeth together, &c: as Daughter and Heire, &c: And which after the death, &c: And thereof they bring Suite, &c.

Court,

And the same *W.* and *E.* the elder and all the others, by *W. S.* their Attorney come & severally defend their right when, &c: And the same *M. E.* the elder, and all the others, besides the same *A. W.* as to the Tenements against them severally demanded say, that the said *W.* Son of *W.* gave not the Tenements aforesaid with the appurtenances to the said *W.* Son and heire in free marriage, with the said *Inett.* As the same *R. S.* and *M.* his Wife above by their writt and declaration supposed. And of this they putt themselves upon the Countrey, and the same *R.* and *M.* his Wife likewise, and the same *W. A.* as to the Tenements against her demanded, saith, that she could not render the said Tenements, to the said *R. & M.* because she said that she is not thereof Tenant, nor was at the day of purchasing the writt, &c: And this she is ready to verifie, whereupon she prayeth Judgment of the writt, &c: And the same *R.* and *M.* his Wife said, that their said writt for the reason before alleadged, ought not to be quashed, because they say that the day of purchasing his said writt, to wit the 3d. day of *May, Anno R. 40.* the same *A. W.* was Tenant of the same Tenements demanded against her, as they by their said writt supposed, and this they pray, that it be inquired by the Countrey, and the same *A* likewise therefore as to all the issues, &c: the Sheriffe is commanded that *Ve fac. Oct. Hill Xij,* &c: Afterwards proces thereof being continued between the parties aforesaid, of the aforesaid plea, by the Jury thereof, between them, respited here untill this day, to wit in *Cro. Aiar.* unless the Justices of the said Lord the King, assigned to take Assizes in the County aforesaid, on Saturday, &c: at *Leic.* had first come, and now here at this day, came as well the same *R.* and *M.* as all the other Tenants, by their Attorneys aforesaid, and the same Justices of Assizes before whom, &c: sent here their Record in these words, afterwards the day and place within contained before *T. de F.* and *I. C.* Justices of the Lord the King, &c: came the parties within named, by their Attorneys aforesaid, and likewise the Jury came, who to speak the truth of the premisses within contained being elected tried and sworne the same *R.* and *M.* brought here into the Court, a certaine deed in evidence to the same Jury, by *W.* Son of *W. de F.* to the same *W.* Son of *H.* of the free marriage with *Inett* his Siter made in these words. Lett the present and future know that *I. W.* Son of *W. de F. de S.* have given and granted, and by this my present deed, for me and my heires for ever quit claimed to *W.* Son of *H. de S.*

Severall defences.

did not give by some.

non Tenore by others.

refac. for tri-
all of those is-
sues.

Formdon in Descender.

Judgment a-
gainst Tenant.
Mercy.

Judgment a-
gainst the de-
mandants
for the o-
thers, and that
he take no-
thing by his
writt.

Formdon by
him in Remain-
der, upon a
fine levied to
uses after the
statute for uses
Spec. writt.

in free marriage with *Inett*, my Sitter, one moyety of one Rood of Land which I bought of the same *W.* to witt one Rood of Land, which was som-
times of the said *Henry*, Father of the said *William* within the Rectory of *S.*
with the appurtenances, and with one Toft, which was somtimes of the said
H. which lieth in the Town of *S.* neere the toft which was somtimes of *T.*
the Provost, with the appurtenances with all other liberties and easements
unto the said Rood of Land, and the said toft and croft in the Town of *S.* and
territories of the same belonging, as by the deed which the same *W.* hath
made to me of the same Rood of Land, and of the same Toft and Croft pur-
ports and testifies, to have and to hold to the same *W.* and *I.* their heires or
assignes freely, quietly, well and in peace, without any reclaime of me or
my heires or other earthly men for ever rendring yearly the Services ap-
pertaining to the cheife Lord of the fee, and that this my guift grant and
quir clayme be for ever right and stable, I have sealed this Deed with my
Seale, with these witnesses *I. F. de S. W. C. de Eadem, R. N. de Eadem, S. I.*
de Eadem, R. C. and others, and hereupon the same Jury say upon their
Oath, that the same *A. W.* was Tenant of the Tenements against her de-
manded, the same day of purchasing the writt; and further say, that the
Tenements above in the same Deed contained given and Seisin was deliver-
ed by the same deed, according to the purport of the same deed, and be-
cause some other words in the same deed, do sound in free marriage, And in
some other words in Fee simple, the same Jury know not to discern there-
in the truth, and pray the advise of the Justices, &c: And as to the said
Land against the same *A.* demanded, It is considered that the said *R.* and
M. recover thereof their Seisin, and the same *A.* in mercy, &c: And as to
the whole residue, day is given to the parties aforesaid of hearing their
judgment upon the same verdict, here untill *XV. Pas. &c.* At which day
here came the parties aforesaid, and it is considered that the same *R.* and
M. take nothing by their said writt, for that the Tenements aforesaid
were not given in free marriage, as they by their said writt suppose, but
be in mercy for their false claime, &c.

M. 24. and 25. *Eliz. Rot. 1209, Derb. ff. Commond Jo. S.* that justly,
&c: he render to *H. C. 10. Mes. &c:* with the appurtenances in *C.*
and *D.* of which Tenements and Rents with the appurtenances, a certaine
fine was levied in our Court of the Common Bench at *Westminster*, in the
County of *Middl.* in *Oct. bill. Anno 12.* before *I. D. R. W. I. W.* and *R. H.*
then our Justices of the Bench, and other our faithfull people then and
there present between *E. p. Elq.* and *W. C. Plaintiffs*, and *M. C. Widow*,
and *W. G.* desorceants, whereof a plea of Covenant was summoned between
them in our said Court, to witt that the same *M.* and *W. C.* acknowledged
the same Tenements and Rents with the appurtenances to be the right of
the same *E.* as those which the same *E.* and *W.* have of the guift of the same
M. and *W. C.* and those they remitted and quit claimed from the same *M.*
and *W. C.* and their heires to the same *E.* and *VV.* and the heires of the same
E. for ever, which said fine in forme aforesaid levied and had, was had and
levied to the use of the same *Margaret* for terme of her life, and after the
decease of the same *M.* to the use of *G. C.* and the heires of his body begot-
ten by vertue of which fine, and by force of a certaine Act in Parliament of
H. 8. late King of England our deare Father, *de usibus in possessionem transfe-
rend.* at *Westminster*, the 4th. day of *February, Anno 27.* held and made
the same *Margery*, was seised of the same Tenements, and rent with the
appurtenances in her demeanne as of free-hold, for the terme of her life, the
remainder thereof, after the decease of the said *M.* to the said *G. C.* and the
heires of his body begotten, and for default of such issue, the remainder
thereof to the same *H.* and the heires of his body belonging, and which af-
ter the death of the same *M.* and *G.* to the same *H.* ought to remaine by
forme of the fine aforesaid, and by force of the same statute, for that the
same *G.* died without heire of his body begotten, as he saith, &c: And un-
lesse, &c.

T 27. *Eliz. Rot. 10. Derb. ff. F. C. Esq.* by *T. H.* his Attorney demandeth against *G. Earle of C.* the moyety of the Mannors, &c: which *H. late Earle of C.* gave to *I. C.* and the heires of his body begotten, and which the same *H.* afterwards granted to the same *F.* and the heires males of his body begotten, to hold after the death of the same *I.* without heire of his body begotten, and which after the death of the same *I.* ought to remaine by forme of the grant aforesaid, for that the same *I.* died without heire of his body begotten, and whereupon he saith that the said *H. Earle*, was seised, of the moyety aforesaid with the appurtenances in his demesne, as of fee and so being thereof seised, gave the same moyety with the appurtenances to the said *I.* and the heires of his body issuing. By which gift the same *I.* was seised of the same moyety, with the appurtenances in his demesne, as of fee and right by forme, &c: in the time of peace, &c: taking thereof the profits to the value, &c: And the same *I.* so being seised of the moyety aforesaid, with the appurtenances, and the same late Earle of the Reversions, of the same moyety, with the appurtenances, as in fee and right being seised, the same late *E.* such a day and yeare at *A.* made his last Will and Testament in writing, and by the same amongst other things gave and bequeathed to the same *F.* and the heirs males of his body lawfully begotten, the Reversion of the same moyety, with the appurtenances amongst other things by the name, &c: As by the same last Will and Testament more fully appeareth, and that the same *H. C.* was seised of the Mannor of *S.* &c: in his demesne as of fee the same *H. Earle* of the same Mannors, &c: And also of the Reversion of the moyety aforesaid, with the appurtenance in forme aforesaid being seised at *A.* in the County of *W.* died thereof seised, after whole death the same Mannors, &c: descended to *G. now Earle*, as Son and heire of the said *H. Earle*, by which &c: was seised of the Mannors aforesaid, &c: And also after the death of the same *H. late Earle*, the same *F.* was seised of the Reversion of the moyety aforesaid as of fee and right, with this that the same *F.* will, verifie, that the same Mannors, &c: descended to the same *G. Earle of C.* At the time of the death of the said *H. late Earle*, exceeded and yet exceed the value of the third part of the whole Tenements aforesaid, to witt the same Tenements, which, as is premised, did descend to the same *G. now Earle*, and of the same Tenements, which by the same Will, were bequeathed to the same *F.* according to the forme of the statute in this case, late made and provided, and afterwards the same *I.* died without any heire of his body begotten, and from the same *I.* the right remained by forme, &c: to the same *F.* and which after the death, &c: for that &c: And thereof he bringeth Suite, &c: And he bringeth here into the Court, the letters Testamentary, of which the grant of the Remainder aforesaid, in forme aforesaid do testifie, the date whereof is such a day and yeare, &c.

Formdon in Remainder by the grantee of the Reversion of the devise in rayle.

Count.

note the avowment of the statute of devises.

T 26. *Eliz. Rot. 17. ff. J. G. and J.* his wife by *B.* their Attorney, and *T. S.* and *W. S.* by the same *J. S.* and *J. D.* who are admitted by the Court here to procure for the same *T.* and *W.* being within age as the next friends of the same *T.* and *W.* demand against *Marg. H.* and *S. 8.* Acres, &c. which *W. S.* gave to *Tho. S. C.* the heirs of his body begotten, and which after the death of the same *T. S.* and *W. S.* Son and heir of the same *T.* and *Eliz.* one of the Sisters and Co-heirs of the same *W.* to the said *Jo.* another of the Sisters and Co-heirs of the same *W.* and to the said *T. S.* and *W. S.* Son and Co-heir of the same *Eliz.* and Cozens and heirs of the same *T. S.* ought to descend by form of the said gift, &c. And whereupon they say that the said *W. S.* gave the tenements aforesaid with the appurtenances to the same *T. S.* and the heirs of his body begotten in form aforesaid by which gift the same *T. S.* was seised of the tenements aforesaid with the appurtenances in demesne as of fee and right by forme, &c. in the time of peace, &c. and from the same *T.* descended the right by form, &c. to one *W.* as Son and heir, and from the same *W.* descended the right by form, &c.

Formdon in Descender brought per Amiram et Neprem of Lands in Gæ. vel kind.

Count.

Formdon in Remainder.

&c. to *Eliz.* one of the Sisters and Co-heirs of the said *W.* and to *Johan* another of the Sisters and Co-heirs of the said *W.* who now demandeth together &c. And from the same *Eliz.* descended the right of the moyety of the tenements aforesaid with the appurtenances to her out of the whole tenements aforesaid happening by form, &c. to the same *T. S.* and *W. S.* who now demand together, &c. as Sons and Co-heirs with the said *Eliz.* and Cozens and heirs of the said *T. S.* for that the tenements aforesaid with the appurtenances are of the said tenure and nature of Gavelkind and according to the custome of the County aforesaid from the time whereof no memory is extant used between the heirs males were parted and partible, and which after the death, &c. and thereof they bring suit, &c.

Age allowed
after the issue
joyned.

The tenements pleads *non tenure*, and the demandant maintaines his Writt: And this he prayeth that it be inquired by the Country, and the said tenants likewise, and thereupon the same tenants say that they are within age whereby they say that during their Minorities, they cannot be parties to try the truth. And thereupon pray that the same plaint may remain unto the full ages of the same *M.* and *S.* and because the demandant cannot gaynesay this. Therefore let the same plaint remain untill the full ages of the same *M.* and *S.* &c.

General writt
and Spec.
Count upon
devise before
the Str. of uses.

PAg. 27. *Eliz. Rot. 513. ff. T. C.* by *J. B.* his Attorney demandeth against *J.* eight *Mes.* which *J. B.* gave to *Eliz. B.* and the heirs of her body begotten, and which after the death of the same *E.* to the said *T.* Son and heir of the same *E.* ought to descend by form, &c. and whereupon he saith that one *T. P.* was seised of the Lands in fees, and suffers a Recovery to the use of the donors in fee, and that the Recoverors enter and were seised to the use of the donors and their heirs in the time of peace, in the time of, &c. and further that he who had the use made his will and by the same will willed that his Feoffees should make to *Eliz.* then his wife a Lawfull estate of the tenements to the use of the same *Eliz.* for term of her life, and after her decease the tenements should remain to the Donee in rayle and died seised after whose death the Feoffees were seised for the use of the Feme for life the Remainder, &c. untill the 4. day of *February* which day and by force of the Statute, &c. the Feme was seised for life the remainder over, the Feme did in Remainder enter. And was seised, &c. by pre-text of the Recovery and last will, &c. and by force of the Statute, &c. in the time of peace, &c.

Formdon in
Descender by
the heir to
the devise in
Remainder.

M32. and 33. *Eliz. Rot. 140. ff.* which *J. E.* the great Grand-Father of the same *I.* gave to *Johan* his wife for her life, so that after the death of the same *Johan* the tenements aforesaid with the appurtenances to *I.* Son of the said great Grand-Father and heir of the body of the same *Johan* issuing should remaine, and which after the death of the same *Jo.* *Iohn* the Son and *A.* Son and heir of the said *I.* to the said *I.* Daughter and heire of the said *A.* ought to descend by forme of the said writt, and count upon a Devise & that the deviser continued seised in the time of peace, and died seised, and he in Remainder enters, and was seised in the time of peace, &c. And from the same *I.* descendeth the right by forme, &c. *non tenure* to part & *non legaint* for the residue, and the demandants maintaynes his writt as to the *non tenure*.

Entry in the
post by the
heir upon the
desseisin of his
Mother and
Counts whose
heir he is.

M25. and 26. *Eliz. Rot. 83. ff. G. F. Knt.* &c. demands against *R. S.* Esquire one tolt &c. as his right and inheritance & into which the same *R.* hath no entry, unless after the devise which *I. R.* thereof unjustly & without Judgment, made to *I. E.* & *A.* his Wife and *G. F.* and *M.* his Wife, of which said *A.* & *M.* the same *G. F.* is heir within 50. years. And Whereupon he saith that the said *I.* & *A. G. F. A.* & *M.* were seised of the Tenements aforesaid with the appurtenances in their demeaine as of fee and right, of the same *A.* and *M.* in the time of peace, &c. And from the same *A.* and *M.* for that the same *M.* died without Heire of her body begotten, the right descendeth to the same *G.* who now demandeth as Son & Heire of the same *A.* & Cozen & heire of the same *M.* to witt Son of the same *A.* Sister and Heire of the same, &c. And into which, &c. And thereof he bringeth Suite, &c.

The

The Tenant voucheth to warranty A. N. Esq; Son and Heir of A. N. who appeareth, and prayeth, that the Tenant may shew to the Court here, if any thing of specialty, &c. whereupon the Tenant prayeth impatience, and afterwards, the Tenant prayeth the view. And the same Tenant saith, that the same A. Father of the same A. whose Heir he is, was seised of the Tenements aforesaid, with the Appurtenances in his Demel, as of fee. And being so thereof seised, such a day and year, demised the Tenements, &c. (amongst other things) to one G. L. for years, who was possessed. And the same Alexander was seised of the reversion of the same in his Demel, as of fee and right. And the same A. being so thereof seised, and the same Tenant of the Tenements aforesaid, with the Appurtenances in form aforesaid, being possessed of the same A. by his certain Dæd, which, &c. gave, granted and sold, and the same by his Dæd confirmed to R. S. the Grandfather of the said R. and W. S. of the same R. now Tenant, whose Heir he is: the reversion of the Tenements aforesaid, with the Appurtenances, unto R. and W. and the Assignes of the said W. to the only and proper use, and behoof of the same R. S. and W. and their Assignes, for ever. And he bound himself and his Heirs, to warrant to the same R. and W. and their Assignes for ever. And the Tenant attorns and conveys the reversion to the Tenant, and bringeth here into Court, the Dæd aforesaid, which testifieth the same grant, the tenor whereof, followeth in these words, and prayeth, that the same A. the Tenements aforesaid, above demanded, by virtue of the said Dæd to him may warrant, &c. cannot warrant, for that he hath nothing by hereditary descent, for plea, non Concessit. And saith, that Concessit. And at the Assizes, the Tenant relinquisheth the justification, and acknowledgeth, quod Concessit. And judgment that the demand should recover his Seisin against the Tenant of the Tenements aforesaid, with the Appurtenances. And that the Tenant have of the Land of the Toucher, to the value, &c. And the same, A. in mercy, &c. And a Writ of Seisin awarded. And it is commanded, the Sher. ff. that by the Oath, of honest, &c. that he cause to be extended, and appraised, the Tenements aforesaid, with the Appurtenances. And the extent and appraisement, wherefore, &c. he make known here at the same Terme, under the Seal, &c. and the Seals, &c. And Seisin of the other. And the extent returned, and livery of Seisin of the Lands of the same A. to wit of 15 Acres of Meadow, in a convenient place in M. and N. to the value of the said 4 l. by the year prout, &c.

Vouchee enters into the Warranty, and prays shew

Maine thereof in the Court, &c. by his Writ leyed, granted to J. H. and the Heires of his body issuing. And which after the death of the said J. and W. Son and Heir of the same J. and J. Son of the same W. and R. Son of the same J. Son of W. and D. Son of the same R. D. one of the Daughters of the same J. Son of W. and one of the Cozens of the said D. Son of R. & F. Son of the said D. Daughter of the said J. Son of W. and Eliz. Son of the same J. Daughter of W. & another of the Cozens of the said D. Daughter of R. and H. Son of the said Eliz. to the same Eliz. Daughter and Cozen, and Heir of the same W. ought to descend by form of the Grant and Fine aforesaid &c. And Count upon the Fine and Grant aforesaid.

Formdon in descender, upon an entail by fine, upon a grant brought by the Heire, who demands the Lands, to wit, one moyety, as Heire, &c. & another moyety, as Heire to his Mother.

And from the same D. descendeth the right by form &c. to certain D and Eliz. Daughters of the same J. Son of W. and Cozen of the same D. Daughter of R. as Cozen and Heir, &c. And from the same D. one of the Daughters of the same J. Son of W. descendeth the right, purpart, or moyety aforesaid now demanded, with the Appurtenances by form, &c. to one F. as Daughter and Heir &c. And from the same F. descendeth the right purpart or moyety aforesaid, now demanded, with the Appurtenances to the same E. as Cozen and Heir, &c. to wit Son of H. Son of the said Eliz. Sister

Forfeiture of Marriage.

of the said Daughter of Johane, Mother of the said P. And of the same Eliz. another of the Daughters of the same J. Son of W. descendeth the right purpart or moiety aforesaid, now demanded, with the Appurtenances by form, &c. to the same H. as Son and Heir, &c. And from the same H. the right descendeth by form, &c. to the said Edmond, who now demands, as Son, &c. and Cozen and Heir of the same W. And which after the death, &c. and thereof he brings Suit, &c. The Tenant pleads a fine in Barre. And the Demandant saith, that the parties to the fine, at the time of leying of the fine, had nothing in the said Tenements. A. for Plea saith, that the same J. S. and J. H. Sons of the said N. who were parties to the said fine at the same time of leying of the same, had nothing, nor either of them, had any thing in the said moiety, of the said Manor of H. thereof demanded of free hold, prout &c. have alledged. And his they pray, that it be inquired by the Country, and the same G. likewise, therefore, xij. &c.

Count in
forfeiture
of Marriage.
See the
new Book
of Warr.
See the old
Book of
Entry, Title
and For-
feiture of
Marriage.
Wett. 2.
cap. K. 35.
The new
Book of
Natura
brev. fo. 58.
Fitz. Na.
brev. 141.
Kelway fo.
133. Pl. 113

M. 33. & 34. Eliz. Rot. 2391. Somers. J. S. Esq. and M. his Wife, Daughter and Heir of I. B. Esq. were summones to answer I. M. Esq. Administrator of the Goods and Chattels, which were of E. N. otherwise called, &c. who dyed intestate, &c. of a Plea: wherefore, whereas the Marriage of the same M. unto the same E. in his life-time belongeth, by reason of a demise, the which J. H. to whom J. H. the same demised, whereunto the Marriage belongeth of the Demise of the said Lady the Queen now for that the same J. B. holds his Lands of the said Lady the Queen, in Capite, by Knights service thereof made to the same E. and the same E. in his life-time unto the same M. within age, and was in his custody a competent marriage without disparagement, according to the form of the Statute of the Common Council of England, of the said Lady the Queen, thereof provided, after offered, the same M. refusing that Marriage her self without the Licence & Will of the same E. married and of that Marriage to the same E. in his life-time, and to the same Administrator after the death of the same E. when now she is come to her full Age, refuseth to satisfy. And the same J. S. and M. yet refuse unjustly, in the retarding of the Administration of the Goods and Chattels aforesaid, and against the form of the Statute &c. And thereof bringeth Suit &c. In a Writ de valore maritagij, tender ought to be alledged, if it be for a Woman.

For Plea the Defendants say, that the same M. was married to the same J. S. after her full age of 21 years, without this, that the same E. in his life-time offered the same N. in Marriage to the same R. B. as the same H. by his Declaration aforesaid, above thereof supposeth. And of this &c. And a general demurrer thereupon, but no judgement. Note, that the Argument upon this demurrer in Hil. 38. Eliz. O. & B. Justices were of opinion that no tender ought to be alledged in the Court, but W. and Anderson, of the contrary.

M. 36. & 37
Eliz. Rot.
B. 25. the
like.

T. 4. Jac. Rot. 1519. s. Brownlow, Devon. H. R. S. Son and Heir of R. S. was summones to answer I. W. of a Plea, wherefore whereas the Marriage of the same R. belongeth to the same I. by reason of a Demise, which W. M. who had the Marriage in the right of Iohan his Wife, executrix of the Testament of Alex. A. Executor of the Testament of W. A. of which I. D. the same R. held his Land by Knights service, granted the same, thereof made to the said I. W. And the same I. W. the same R. whilst he was within age, and in his Custody offered a competent Marriage without disparagement, according to the form of the Statute of the Common Council of the Kingdom of the said Lord the King, thereof provided, often offered, the same R. refusing without the Licence and good will of the said I. W. married and gainstayed to satisfy the same I. of that Marriage, to the great damage of the said I. W. and against the form of the Statute aforesaid, &c. And whereupon the same I. W. by G. C. his Attorney complaineth, wherefore whereas the Marriage of the said R. to the same I. W. belongeth, for that the same R. S. the Father of the said R. whose Heir he is, his Land,

to

to wit, 1 Mef. 30 Acres of Land, and 5 Acres of Meadow, with the Appurtenances in B. in the County aforesaid, held of the said I. D. as of his Manor of B. with the Appurtenances in the County aforesaid, by homage, fealty, and escuage of the Lord the King, 40 s. when it should happen 2 s. And so to more, more, &c. or less, less, &c. of which services the same I. D. was seised by the hands of the said Richard, as by the hand of the true Tenant, to wit, of the homage and fealty aforesaid, as of fee and right, and of the escuage aforesaid, in his Demel. as of fee, the same R. died. in the homage of the same I. D. the same R. Son and Heir of the same R. at the time of his death, being within age, to wit, of the age of 16 years, whereby the same I. D. seised the body of the same Ro. and was of the custody of the same Ro. possessed. And being so thereof possessed, the same I. D. the 19th day of Jan. Anno Eliz. Reg. late Queen of England, the 33. at B. aforesaid, by his certain writing, which the said I. W. with the Seal of the said I. D. signed here in Court, bringeth the date, whereof is the same day and year granted to the same W. A. the Custody and Marriage of the same R. to hold without disparagement to him, and his Assignes, until the same R. should come to the age of 21. years By virtue of which grant, the same W. was of the Custody and marriage of the same R. possessed by virtue of the Execution of the said Will. And being so thereof possessed, the same W. the 12. day of May, Anno Dom. 1589. at B. aforesaid, made his Will, and the same A. A. Executor of his Testament aforesaid, made and ordained, and afterwards there died, of the Custody and Marriage of the same R. in form aforesaid possessed after whose death the same A. the charge of the Execution of the same Will took upon himself and was of the Custody and Marriage of the same R. possessed, by virtue of the Execution of the same Will, And being so thereof possessed, the same A. the 27. day of May, Anno Dom. Regin 35. at B. made his Will, and constituted and ordained the same Iohane Executor of his Testament aforesaid. And afterwards there died, of the Custody and Marriage of the same R. in form aforesaid possessed; after whose death, the same Iohan. the charge of the Execution of the same Will, took upon her self, and was of the Custody and Marriage of the same R. possessed by virtue of the Execution of the same Will. And being so thereof possessed, the same I. the second day of May, Anno Rne 37. at B. aforesaid, took to Husband the said W. M. whereby the same W. and I. in the right of the same I. were of the Custody and Marriage of the same R. possessed. And being so thereof possessed, the same W. the 9. day of S. Anno Rne 38. at B. aforesaid, by his certain writing, which the same I. W. with the Seal of the said W. sealed here in Court, bringeth the date whereof is the same day and year granted to the said I. W. the Custody and Marriage of the same R. without disparagement; To hold to him and his Heirs, until the same R. should come to the full age of 21. years. By virtue of which Grant, the same I. W. was of the Custody and Marriage of the same R. possessed. And being so thereof possessed the sixth day of April, Anno Reg. Anglie, &c. 1. and of Scotland 36. at B. aforesaid, the same R. whilst he was within age, to wit, of the age of 16. years, and was in his Custody a competent Marriage, to wit, I. N. Daughter of E. N. without disparagement, according to the form of the Statute, of the Common Council of the Lord the King of England often offered. The same R. the 13. day of Jan. Anno &c. 1. at B. aforesaid, refusing the same Marriage, himself, without the Licence and against the mind of the said I. W. married, and of that Marriage, to satisfy the same I. W. refused, to the great damage, &c. And against the form of the Statute, &c. whereupon he saith, he is the worse, and hath damage, to the value of 200 l. And thereof he bringeth Suit, &c.

And the same Ro. by P. D. his Attorney commeth, &c. Adio non; Because he saith, that well and true it is, that the said R. S. the Father of the same R. whose Heir he is, held his said Land of the said I. D. as of his said

Forfeiture of Marriage.

Mannor of B. with the Appurtenances in the County aforeſaid, by homage, fealty, &c. And that the ſaid **Rt.** died in the non-age of the ſaid **J. D.** the ſame **R.** Son and Heir of the ſaid **R.** at the time of his death within age, to wit, being of the age of years; whereupon the ſame **J. D.** ſeiſed the body of the ſame **R.** and was of the Cuſtody of the ſame **R.** poſſeſſed. And being ſo thereof poſſeſſed, the ſame **J. D.** the ſame 19. day of Jan. Anno 33. aboveſaid, by his writing aforeſaid, granted to the ſame **W. A.** the Cuſtody and Marriage of the ſame **R.** without diſparagement, to hold to him and his Aſſignes, until the ſame **R.** ſhould come to his full age of 21 years, And that by vertue of the ſame Grant, the ſame **W.** was of the Cuſtody, and Marriage of the ſame **R.** in form aforeſaid poſſeſſed; as the ſame **J. W.** hath aboveſaid. But the ſame **R.** further ſaith, that the ſame **W.** of the Cuſtody and Marriage of the ſame **R.** in form aforeſaid, being poſſeſſed: the ſame **W.** in his life-time, to wit, the firſt day of March, Anno Dom. 1589. aboveſaid, at **B.** aforeſaid, granted to one **A. S.** Widow, the Cuſtody and Marriage of the ſame **R.** without diſparagement, to hold to her and her Aſſignes, until the ſame **R.** ſhould come to his full age. By vertue of which Grant, the ſame **A. S.** was of the Cuſtody and Marriage of the ſame **R.** poſſeſſed. And being ſo thereof poſſeſſed, the ſame **A. S.** the 20. day of March, Anno 1589. aboveſaid, at **B.** aforeſaid, granted to one **J. P.** the Cuſtody and Marriage of the ſame **R.** without diſparagement, to hold to him and his Aſſignes, until the ſame **R.** ſhould come to the full age of 21 years. By vertue of which Grant, the ſame **J. P.** was, and yet is of the Cuſtody and Marriage of the ſame **R.** poſſeſſed without this, that the ſame **W. A.** died of the Cuſtody and Marriage of the ſame **R.** poſſeſſed, as the ſame **J. W.** by his Declaration aboveſaid ſuppoſeth. And this he is ready to verine, whereupon he prayeth judgment, if the ſame **J. W.** his Action aforeſaid, againſt him, ought to have, &c.

And the ſame **J. W.** &c. ought not to be barred, &c. becauſe he ſaith, that the ſaid **W. A.** died poſſeſſed of the Cuſtody and Marriage of the ſame **R.** as he above hath alledged. And this he prayeth, that it be inquired by the Countrey, and the ſame **R. S.** likewise: therefore the Sheriff is commanded, that he cauſe to come here, Tres Trin. 12. &c.

Pas. 26. and 27. H.8. Ror. 302. s. Rockwood Kanc. ff. W. S. Creator of the Teſtament of A. C. againſt I. L. Son and Heir of I. L. in forfeiture of Marriage, upon reſuſal of Marriage, tendered within age, in the iſſe of the teſtator, and afterwards the Ward marrieth himſelf in the iſſe of the teſtator, without Licence, &c. And ſaith, That the Lands are held of **J. C.** by homage, fealty, and Eſcuage of his Mannor of **D.** which is held of the King in Capite, And that **J. S.** is the Kings Ward, when by the King may ſeiſe the Body of the Defendant, by reaſon of his Wardſhip, &c. And the Defendant marries himſelf without Licence of the King, and pleads the general pardon 26 H. 8. judgment, if Action, &c. the Plaintiff maintrains his Count, and travertieth, that the Lands are held by Knights Service and iſſue thereupon, &c.

INFORMATION.

P 13 Jac. Rot. 2194. Information upon the Statute of 1. Eliz. for using a trade whereunto he was not an Apprentice for seven years; and not guilty pleaded (verdict against the Informer) and judgement also and Damages against the Informer. Costs against an Informer.

T 14 Jac. Rot. 2622. Brownlow ff. Be it remembered that the xiiij day of June in that same Terme came here into Court I H who as well for himself as for, &c. followeth in his proper person, and exhibited to the Justices here a certain Information against one T T late of, &c. the tenor of which Information follows in these words; To the Justices of the Common Bench ff. Lincoln.

Be it remembered that I H who as well for the Lord the King as for himself followeth, giveth the Court here to understand, & he informed that 300 Acres of Arable Land lying in E. in the County of Lincoln and parcel of the Rectory of E. aforesaid being the 24. day of October An. Regina Eliz. 39. were used in Tillage and for Tillage by the space of twelve whole years one after another running, and according to the course of Husbandry used in that part of the Country there. And further the same I H as well for the Lord the King as for himself, saith that one T T late of E. in the County aforesaid Freeman, the 16 day of June Anno R. 13. was occupier and possessor of the said 300 Acres of Land, and from thence untill the day of the exhibiting of this Information, to wit the 27. day of June Anno R. &c. 14. his occupation and possession of the same 300. Acres of Land continued; And that the same T T so as is aforesaid being occupier & possessor of the same 300 acres of land, the same 300 acres of land the same 16 day of June in the 13 year abovesaid, & allwaies afterwards, untill the same day of the exhibiting of this information, to wit by the space of one whole year at E. aforesaid were continued and converted to Sheep Pasture, and for grasping & fattening of Cattle by the same T T, so as is E. aforesaid being occupier and possessor thereof, against the force of the Statute in this case made and provided. And that the said 300 acres of land, or any parcell thereof the same sixteenth day of June, Anno 13. abovesaid, or at any time between the same sixteenth day of June, Anno 13. abovesaid and the same day of exhibiting of this information were not used in tillage for Cowne and Grain according to the nature of the soil, and according to the course of husbandry in that part of the Country used, as they ought to have been continued and used according to the force of the Statute aforesaid, whereupon the same I H as well for the Lord the King as for himself, prayeth the advice of the Court in the premises. And that the same T T may forfeit 200 l. of lawfull money of England, to wit for every acre of the said 300 acres of land, twenty shillings for one whole year; And that the same forfeiture be divided into three equall parts, according to the force of the Statute aforesaid; And that he the same J one third part of the forfeiture aforesaid may have according to the force of the Statute. And also that the same T T may come here into Court to answer the said Lord the King, and to the same J H. who as well, &c. of, and the premises and Pledges to prosecute Jo. Doe, Rich. Roe. And upon this it is commanded to the same T T. that all other things omitted, and all excuses wanting, he be in his proper person here upon Wednesday next after O. S. M. next to come to answer to the same J H. who as well, &c. of, and upon the premises, &c. And of this fail not under the penalty of C. 1. &c.

Information.

Delivery of the Information upon Record.

Information for converting of Arable Land into Pasture against the Statute of 29 Eliz. Cap. 2 Poulton fol. 809.

T 20 Jac. Rot. 2023.

The offence.

The Informer prayeth his part of the penalty.

Subpoena.

Information
for debt due to
the King.

T 2 Jac. Rot. 312. Information by the Attorney Generall in Debt, for Arrearages of Rent due to the Queen upon a Lease made by the Prior, &c. where the Queen in her life time alienes the reversion, Coke Attorney against Ridge.

P 1 Jac. Rot. 808. M. 2 Ja. Rot. 2819. Informations upon the Statute of Champerty H. 1 Ja. Rot. 1917. T. 2. Ja. Rot. 1820. & 2820. upon the Statute for maintenance P. 2 Ja. Rot. 711. between B. and D. Information upon the Statute against the publishing of fraudulent deeds. T. 2. J. Rot. 3384. Ester between it. and it. upon the Statute of forcible Entries.

Information
for shooting
in an hand-
Gun against
the Statute of
32 H. 8. Cap. 6.
Paultons Sta-
tutes 317.

T 14 Ja. Rot. 3577. Brownlow ff. War. ff. Be it remembered that C. Y. late of, &c. who aswell for the Lord, the King as for himself followeth, came here into Court the tenth day of June, that same terme in his proper person; And aswell for the same Lord the King as for himself, giveth the Court here to understand, and to be informed that one J. M. of F. in the County of War. Peoman, at divers times and seasons, between the twentieth day of Jan. Anno, &c. 13. And the day of exhibiting of this Information at F. aforesaid used to shoot with a fowling piece at divers Pidgeons and Birds, and the thirtieth day of January Anno 13. abovesaid, with the same fowling piece, then loadned with Gunpowder and with hail-shot, at F. aforesaid at certain Pidgeons there shot. And the 31. day of January Anno 13. abovesaid with the same fowling peece, then loadned with Gunpowder and hail shot, at divers other Pidgeons there shot. And also the 6 day of February Anno 13. abovesaid, with the same fowling peece also loadned with Gunpowder and hail shot, at divers other Pidgeons there shot; and others Pidgeons at every shot of the said shoots killed, against the forme of the Statute in this Case provided. By which the same hath forfeited to the said Lord the King 40. l. viz. for every shot of the said shots x l. of which said 40. by the said J. as is promised, forfeited the same C. who aswell, &c. demandeth one moiety according to the forme of the Statute aforesaid; And that the said J. may come here into Court, to answer aswell the said Lord the King, As to the said C. who aswell, &c. in the premises, &c. Pledges to prosecute J. D. R. R.

The Informer
prayeth the
moiety of the
penalty.

Delivery of
the Informa-
tion upon
Record.

T 14 Jac Rot. 3229. ff. Be it remembered that P. W. one of the Justices of the said Lord the King of the Bench here 21. May that same Terme, and with his own hands delivered here into Court, a certain Information befoze him the 22 day of May last past by one N. H. who aswell, &c. followeth against one J. L. of E. in the County of Middlesex, exhibited in the Court here upon Record to be enrolled. The tenor of which said Information follows in these words.

Information
upon the Sta-
tute of 28 E.
1. Cap. 11. of
Champerty
against the
Vendee.
See the Book
of Entries fol.
118. title
Champerty
28 E. 1. Cap.
11.
Articuli super
Chartas.

To the Justices of the Common Bench (Such. ff. Be it remembered, that N. H. who aswell for the Lord the King as for himself followeth, came befoze P. M. Knight one of the Justices, &c. at his Chamber, situate in Serjeants Lane in Chancery-lane the 26 day of May, Anno &c. 14. in his proper person, And as well for the same Lord the King as for himself, giveth the Court here to understand and be informed; That whereas amongst other Articles, which the Lord Edward late K. of England, the progenitor of the same King, now for the amendment of the State of the people of his kingdome made provided and ordained; That no Officer nor any other (for to have any part of the thing which is in Plea) shall not take upon him the businesse that is in suit) nor none upon any such a Covenant, give up his right to another, under

under the penalty of forfeiture of the value of the thing so had and acquired by such Covenant. And whereas one E. M. was seised of and in one Barne and parcell of land called C. And of and in two Closes or parcells of land called W. with the appurtenances situate and being in the County of S. aforesaid in his demesne as of free, unto which Tenements with the Appurtenances the same N in conscience and equity, having right and title the same N for the better obtaining and recovery thereof, a certain Suit in the Court of the said Lord the King in Chancery at Westminster in the County of Middlesex, being by Bill in the same Court, against the same M exhibited began and was moved, which said Suit between the parties aforesaid in the same Court for the cause aforesaid, so begun & there depending undiscussed the same J. L. of E in the County of Middlesex Gentleman well knowing the premises the 28. day of March Anno, &c. 14. at C. aforesaid, a certain grant of the Tenements aforesaid, with the appurtenances to have and to hold to him and his heirs, for ever of the grant of the same E. M. sought and obtained, for which said grant of the tenements aforesaid, with the appurtenances, so as is premised, being in Plea, and to have other profit thereof by Covenant, between the same E. M. and J. made the same J. at C. aforesaid, the businesses which then were in Plea, to wit the same Suit in the Court aforesaid, in forme aforesaid begun, and there depending undiscussed to maintain against the same N assumed, and maintained against the forme of the provision aforesaid; And the same N further saith, that the same tenements with the appurtenances at the time of the obtaining of the said grant were worth 500 l. of lawfull money of England, whereby Action accreth to the same N to demand and have aswell for the said Lord the King, as for himself of the said J. L. 500 l. of lawfull money of England, for the value of the tenements aforesaid, with the appurtenances by him against the forme of the Statute aforesaid sought and obtained, whereupon the same N who aswell. &c. prayeth one money according to the forme of that Statute; And as well for the Lord the King as for himself prayeth the advice of the Court in the premises; And that the same J., may come here into the Court, to answer of and upon the premises, &c. pledges to prosecute J. D. R. R. And hereupon it is commanded to the said J. L. that all other things omitted; and all excuses whatsoever set apart, he be in his proper person here to wit at Westminster upon Wednesday next, after Oct. Mich. to answer of and upon the premises, &c.

T¹⁴ J². Rot. 339 ff. Be it remembred that A. B. who aswell for the same Lord the King, as for himself in this behalf followeth came here in Court the 10 day of June that same Terme in his proper person; And exhibited to the Justices here a certain Information against W. J. of. &c. The tenor of which Information followeth, &c. in these words; To the Justices of the Common Bench Middlesex ff. Be it remembred that A. B. who aswell for the said Lord the King as for himself, gave the Court here to understand and be informed; That whereas by a certain Act in Parliament of the Lord H. late King of England the 8. at Westminster in the County of Middlesex Anno 32. held amongst other things, It was enacted by the authority of the same Parliament, that no person or persons of whatsoever state degree or condition, he or they are or should be. should from thence afterwards unlawfully maintain, &c. as in the Statute word for word, as in the same Statute is more fully contained; And whereas H. 5. P. P. and A. his wife Administrators of the Goods and Chattels, which were of J. S. in the Court of the Lord the King befoze the same King at Westminster, to wit in Michaelmas Terme Anno R. 12. impleaded W. E. and J. H. his wife, and the same A. B. of a Plea of Trespass upon the Case, and upon due proceedings in the same Plea, had judgement in the same Court befoze the same King was given

Information exhibited upon the Statute of 32 H. 8. Cap. 9. for unlawful maintenance.

See the new Book of Entries fol. 163. title debt.

for the same H P and A against the same W T and J and A upon which said judgement the same W J and A afterwards, to wit the 27. day of Anno, &c. 13. out of the Court of the said Lord the King of Chancery at Westminster in the County of Middlesex being brought and prosecuted, a certain Writ of the said Lord the King to correct error returnable, into the Court of the Exchequer Chamber at Westminster before the Justices of the Common Bench, and Barons of the Exchequer upon Saturday 20 day of May then next following. Notwithstanding W J of F in the County of N Deoman not regarding the Statute aforesaid, nor the punishment therein contained, any jot fearing after the making of the same Statute to wit in Trinity Terme Anno 13. abovesaid, whilst the same Suite in the same Court of the Lord the King, before the same King depended, and afterwards to wit in the same Terme of the holy Trinity, and in Michaelmas Terme then next following, whilst the same Suit in the same Court of the Exchequer Chamber aforesaid, by vertue of the same Writ to correct Error, depended at the City of Westminster in the County of Middlesex, for the maintenance of the same Suit between the parties aforesaid, in the Court aforesaid, as is premised depending one R H to prosecute and defend that Suite unlawfully referred; And the same A who, &c. saith that the same W J in the same Terme of the holy Trinity Anno 13. abovesaid, at the City of Westminster aforesaid, upon himself assumed and to the same R H faithfully promised, that he would pay or cause to be paid to the same R H all such sums of money, which he the same R should lay out: And also all Attornies Fees due in, and about the prosecution and defence of the same Suit; And the same A further saith, that the said W from the same Terme of the holy Trinity Anno 13. abovesaid hitherto at the City of Westminster aforesaid, maintained and unlawfully prosecuted the said Suit, and others sums of money, for the unlawfull maintenance and prosecution of the said Suit, to others Cancellors, Attornies, Clerks, and Officers, as well of the same Court of the Lord the King, before the same King as of the same Court of the Exchequer Chamber, unlawfully hath paid and layd out, in the manifest delay of Justice, and of the same W J and A manifest grievance disturbance and impoverishment; And in contempt of the Lord the King now, and against the forme of the Statute aforesaid, whereby the same W J hath forfeited ten pounds for the unlawfull maintenance, and prosecution aforesaid by the same W in forme aforesaid, against the forme of the Statute aforesaid done and committed, whereupon the same A who aswell for the said Lord, &c. prayeth the one moiety according to the forme of the Statute; And aswell for the Lord the King as for himself, prayeth the advice of the Court in the premises &c. And that the said W J may come here into the Court to answer of and upon the premises and Pledges, &c. And hereupon it is commanded the said W &c. as in the others, &c.

Information upon the Statute of 21 H 8 Cap. 13 against a spiritual person for non-residence in his benefice.

21 H 8 Cap. 13 fol. 93 Poulton new Statutes.

T 14 Jic. Rot. 3362 Brownlow. Otherwise as it appeareth in Easter Terme Anno, &c. 14 Rot. 1026. It is thus contained; Be it remembered that the 12 day of Michaelmas that same Terme come here into Court T G who aswell for the Lord the King, as for himself followeth in his proper person; And exhibited to the Justices here, a certain Information against R E of N Clerke; The Tenor of which Information followeth in their words; *ff.* To the Justices of the Common Pleas Not. *ff.* Be it remembered; that the 12 day of May, that same Terme came here into Court T G who aswell for the Lord the King as for himself followeth in his proper person; And as well for the Lord the King as for himself, giveth to the Court here to understand and be informed that one R E of N in the County aforesaid Clerke, who the 12 day of May Anno, &c. 13 was a spirituall person and beneficed

benefited in the Rectory of N aforesaid, and continually hitherto is, and in the same instituted and indued from the same 12 day of March Anno 12 aforesaid, untill the day of exhibiting of this Information, to wit, by three whole months at severall times in the year aforesaid, to wit, between the same 12 day of May, and the day of exhibiting of this Information, any personall residence of above in, to, or upon the Rectory aforesaid, hath not kept or made, but himself from the same Rectory by the same three whole months, hath voluntarily absented himself, against the forme of the Statute in this Case made and provided; By which Acton accreweth to the same T who aswell, &c. to demand, and have of the same R for the said Lord the King and himself, &c. And prayeth the advice of the Court in the premises, and due Procees of Law against the same R in this behalf to be made, to answer aswell to the Lord the King as to the same T who, &c. in the premises, &c. Pledges to prosecute, &c. whereupon it is commanded to the said R that all other things, &c. at a day certain to answer the same T who, &c. of and upon the premises, &c. And hereupon the same R prayeth the hearing of the Information aforesaid, and it is read unto him, &c. which being read and heard the same R saith, that he is in no wise guilty of the premises above imposed upon him, against the forme of the Statute aforesaid; As the same T G who aswell, &c. by his Information aforesaid above supposed; And of this he putteth himself upon the Country; And the same T G who aswell, &c. likewise the Sherifff is commanded that he cause to come here 12. &c.

Not guilty.

P 13 Jac. Rot. 673 Pa'frey against Roberts Information upon the Statute of 31 Eliz. Cap. exhibited by a Common Information for building of a Cottage in Holborne in the County of Middlesex, and sets not forth four acres of land thereunto; And demands in his Information the moiety of the forfeiture for himself; the Defendant demurs, for the moiety is not granted to the party.

T 14 Jac. Rot. 2565 Brownlow M. ff. Be it remembred that T B who aswell for the Lord the King as for himself in this behalf followeth, came here into Court the 12 day of June Anno R. 14 in his proper person; And aswell for the Lord the King as for himself, exhibited to the Justices here a certain Information against J H late of, &c. The Tenor of which Information followeth in these words; To the Justices of the Common-Bench, Middlesex sh. Be it remembred that T B of, &c. who aswell for the Lord the King as for himself in this behalf followeth, came here in Court the xii. day of June that same Terme in his proper person; And giveth the Court here to understand and to be informed; that one J H late of, &c. between the first day of May last past; And the day of exhibiting of this Information at E aforesaid, obtained and ingrossed into his hands and possession, by buying and not by demising, granting, or letting of Lands without Wythes, of divers persons, whose name to the same T B are yet unknown, six acres of Pease price of every acre thereof forty shillings (in blada sine segire) in the fields of K aforesaid, growing, with the intent the same Cozne, and every parcell thereof, after the buying thereof to sell again, against the forme of the Statute in such Case made and provided; whereupon the same T B aswell for the same Lord the King as for himself, prayeth the advice of the Court in the premises, and due proceedings in Law against the same J in this behalf to be made; And that the same J H may be reputed, accepted and taken as an unlawfull ingrosser; And for this first offence may forfeit 12 l. of lawfull money of England; to wit the value of the Cozne; so by him in forme aforesaid, against the forme of the Statute aforesaid, bought and ingrossed; And that the same J B who aswell, &c. may have the moiety of the forfeiture accor-

Bbbbb

ding

Information for unlawfull ingrossing of Corne against 5 & 6 E. 6 Cap. 14.

P 19 Jac. Rot. 1952 the like debt brought upon the same Statute for the like offence and declares upon the Statute.

ding to the forme of the Statute aforesaid, and also that the same I. H. may come here into the Court to answer in and upon the premises &c. And have imprisonment of his body by the space of two moneths without baile or maine prixe, &c. Pledges to prosecute Jo. D. R.R. And upon this it was commanded to the same I. H. that all other things omitted and all excuses, ceasing he should be before the Justices of the said King at Westminster aforesaid upon Thursday next, after 3 weeks of the holy Trinitie to answer as well to the said Lord the King, as to the said A. B. who, &c. And to such things which to him then and there shall be objected; and further to do and receive what the Court, of the Lord the King shall consider of him in this behalf: At which day to wit upon Thursday next after Tris. Trin. came here into the Court as well the said T. who as well, &c. As the said T. by R. S. his Attorney hereunto by the grace of the Court, specially admitted and hereupon the same T. who as well, &c. prayeth that the said I may answer to the premises in the information aforesaid contained, &c. And hereupon the same I. defendeth the force and injury, &c. And whatsoever, &c. And prayeth the hearing of the information aforesaid, and it is read unto him, &c. which being read and heard, and by the same I fully understood the same I saith that he is in no wise guilty of the premises against the form of the Statute above imposed upon him in manner and forme as the said T by his information aforesaid above supposeth, and of this he putteth himself upon the Countrep, and the same I who as well, &c. Likewise therefore the Sheriffe is commanded, that he cause to come here 12, &c.

The defendant pleads not guilty.

Information by the party, greived upon the Statute, 18. Eliz. cap. 5. against a Common Informer, for suing a Subpena before it the information exhibited. 18. Eliz. cap. 5. Recitall of the Act.

T 39 Eliz. Rot. 1719. Brownlow ff. Be it remembred, &c. as in others before untill, And as well for the said Lady the Queen, as for himself giveth the Court here to understand and to be informed, that whereas by a certain Act in Parliament of the said Lady the Queen, at Westminster in the County of M. 8 May. Anno. 14 began and there then held and afterwards continued by divers prorogations untill the 8 day of February Anno. 18. held and made, amongst other things it was enacted for the redressing of divers disorders, amongst common Informers and for the better execution of penall laws. That every Informer upon any penall law Statute should exhibit his suit in proper person and pursue the same onely by himself or by his Attorney in Court. And that none should be admitted or received to pursue against any person or persons upon any penall Statute, but by way of Information or originall actions and not otherwise, nor should have none any deputy or deputies at all. And that upon every such Information, which should be so exhibited, a speciall note should be made of the very Day moneth and Year, of the exhibiting thereof into any office, or to any officer, which lawfully may receive the same. without any manner of antedate thereof to be made, And that the same Information shall be accepted and taken to be of Record from that time forward, and not before; And also by the same Act it was likewise enacted for the Consideration aforesaid that no proces shall be sued out upon any such Information untill the same Information shall be exhibited in forme aforesaid, and that upon every such proces shall be endorsed, as well the parties names that pursueth the same proces, and also the Statute whereupon the Information in that behalf is propounded: and that every Clerk making out proces contrary to the Tenor and provision of the same Act should forfeit and lose 40. s. for every such offence; one halfe thereof to the Queens majestie, her heires and Successours, and another halfe to the party against whom any such defective proces shall be awarded to be recovered in any Court of Record, by Action of debt or Information wherein no esoyne, protection or wager of law shall be admitted or allowed, And at the same Sessions of Parliament it was further enacted, that no such Informer

or Plaintiffe should or might compound, or agree with any person or persons that should so offend or should be supposed to offend against any penall Statute, for such offences Committed or pretended to be Committed, but after answer made in Court to the information, or Suit in that behalf exhibited or prosecuted, nor after answer but by the order or consent of the Court, in which the same information or Suite shall be depending, upon the paines and penalties in the same Act after words expressed and declared, and that if any such Informer or Plaintiff as aforesaid, shall willingly delay his Suite or shall discontinue or be non-sute in the same, or shall have the trial or matter past against him therein by verdict or judgment of law that then in every such Case, the same Informer or Plaintiffe, shall paye satisfaction and pay to the party Defendant, his Costs Charges and Damages, to be assigned by the Court in which the same Suite shall be attempted, for the recovery and execution whereof, every such Defendant shall immediately upon the same, Costs Charges and Damages assigned, have a Capias ad Satisfac, Fierifac, or Elegit, to be awarded unto him out of the same Court, in which the same shall be assigned as is aforesaid, as in other Cases of execution, And further it was enacted at the same Sessions of Parliament, that if any person or persons, except the Clerks of the Court onely for making out of proccesse otherwise then in the same Statute is appointed, should offend in suing out of proccesse making of composition or other misdemeanour contrary to the true intent, and sence of that Statute or should by colour or pretence of proccesse without proccesse upon pretence or colour of any matter of offence against any penall law make any composition, or take any money reward or promise of reward, for himself or the use of any other, without order or consent of some of the Court, of the said Lady the Queen at Westminster that then he or they so offending being thereof lawfully convicted, shall stand on the Pillory in some market Town next adiacent, where the same offence should be committed in the open market time, and there remaine by the space of 2 houres, and shall from & after such conviction for ever be disabled to pursue or be Plaintiffe, or Informer in any Suite or information upon any Statute Popular or Penall, and shall also for every such offence, forfeit and lose 10 pound of lawfull English money, the one half thereof to the Queens Majesty her heires and Successors, and the other halfe thereof to the party grieved thereby, to be recovered in any Court of Record by action of debt or information, in which no stay or protection intimation or wager of law shall be permitted or allowed for that the same Statute takes it's force and effect from the feast of Easter then next following, and continues from thence untill the end of the first Session of the next Parliament, as by the same Statute amongst other things it more fully appeareth, and whereas afterwards to wit, at the Parliament of the said Lady the Queen, now 27. it was enacted by the Authority of the same Parliament that the same Act before recited and all and every the branches clauses and provisions in the same contained, should remaine continue and be from thenceforth in full force, and effect for ever, as by the same Act more fully appeareth; notwithstanding one C. B. being a Common Informer, the same Statute little regarding nor the punishment therein, fearing after the said feast of Easter to wit the 12 of February Anno Eliz. 39. out of the Court of Chancery of the said Lady the Queen at Westminster, in the said County of Middlesex not being a Clerk of the same Court hath sued forth a certain Writ of the said Lady the Queen of Subpena against the same S. F. by which said writ the said Lady the Queen to the same S. then commanded that all excuses, &c. Reciteing the whole writ, as by the same writ it more fully appeareth before, that the same C. B. had exhibited any Information in his own person in the same Court against the same G. W. in any office or to any officer which might lawfully receive the same, which said writ

27. Eliz. cap.
10.

Recitall of
the Subpena.

The misde-
meanour.

in forme aforesaid prosecuted, was indorsed in forme following, to wit at the Suit of C B for ingrossing of Cozne against the forme of the Statute, &c. And the same C afterwards, to wit the first day of March Anno 39 Eliz. aforesaid at London, in the Parish of Saint Mary Bow in the Ward of Cheapside, delivered the same Writ to the said G the same Writ commanding him the said G to appear at the day and place in the same Writ contained; And to do what the Writ required, whereupon the same G afterwards, to wit at the same xv. Pas. at Westminster aforesaid, before the Barons at Westminster in the Exchequer aforesaid, appeared according to the Wenz, and effect of the same Writ; And so the same G saith, that the same C did offend in the prosecution of the same Proces upon the Statute aforesaid out of that Court, in that the said C in his proper person did not exhibit any information in any office, or to any officer, which might lawfully take the same, against the forme of the Statute aforesaid, whereby the said C hath forfeited to the said Lady the Queen now, and to same the G who aswell, &c. being the party grieved in this behalf x l. And the same G who aswell, &c. one half thereof according to the forme of the Statute aforesaid; And aswell for the said Lady the Queen, as for himself prayeth the advice of the Court in the premises; And due Proces of Law against the said C in this behalf to be made; And that the same C may come here to answer aswell the said Lady the Queen, as to the same G in the premises; And that he may stand in the Pillory in some Market Town next adjacent where the same offence was committed in the open Market, and there remain by the space of two hours, according to the forme of the Statute aforesaid, Pledges to prosecute Jo. D. and R R whereupon it was commanded to the same C B that other matters, &c. in his proper person, he be here upon Wednesday next after the morrow of the holy Trinity, to answer aswell the said Lady the Queen, as to the said G who aswell, &c. in the premises, &c. At which day here came aswell the same G who, &c. as the same C by S W his Attorney, &c. And hereupon the same C defendeth the force and injury, when, &c. And prayeth the hearing of the Information aforesaid; And it is read unto him, &c. which being read and heard, the same C saith that he is in no wise guilty of the premises above imposed upon him against the forme of the Statute aforesaid: as the same G who aswell, &c. by his Information aforesaid above suppoeth; And of this he putteth himself upon the Country, &c. So judgement is entered upon the Roll.

Not guilty a-
gainst the Sta-
tute.

Information
against one
for dividing
a Mes. into
severall ha-
bitations.

35 Eliz. Cap.
6.

Quere if this
Statute be not
otherwise de-
termined.

P 41 Eliz. Rot. 1702 Brownlow. Otherwise as it appeareth in the Terme of Saint Hillary Anno Eliz. 41. It is thus contained; Be it remembred that the 9 day of February in the same Terme, came here into the Court J E who aswell for himself, as for the Church-Wardens of the Church of Saint Dunstons in the West, in the Ward of Farringdon without in his proper person, and exhibited to the Justices here, a certain Information against one F C the Wenz of which Information followeth in these words; London s. Be it remembred that J E who aswell for himself, as for the Wardens of the Church of Saint Dunstons in the West in the Ward of F. without, came here into the Court the ninth day of February, that same Terme in his proper person, and giveth the Court here to understand and to be informed, that whereas one F S of London Chandler, was possessed of one mansion house situate in London, in the same Parish of Saint Dunstons in the West, in the Ward of F. without aforesaid, for the terme of divers years yet to come; And being so thereof possessed after the 19 day of February in the xxxv. year of the Reign of the said Queen Eliz. to wit, the twentieth day of July Anno R. E. now 40. did divide the same mansion House into three divers and severall habitations and dwelling houses, for three severall and divers families, to wit

with one part of the same house, into a severall habitation for one L H and his family, & another part of the same house into another severall habitation, for one J R widow and her family, and one other part of the same house, into another severall habitation for one A A, where the same severall houses so into the said severall habitations turned, nor any of them was not, nor were not fit for inhabiting or abode of such person as before was assessed, to or for a Subsidy to the said Lady the Queen of 5 s. in Goods or 2 s. in Lands at the Subsidy next before such division, nor such person, which by two of the Justices of the peace next adjoining to the same house by their writing under their hands and Seals, was presented at the next generall Quarter Sessions to be fit and able to be assessed in the Subsidy, according to the same rate; against the forme of the Statute in this case late made and provided; And the same L H the same 20 day of July Anno 40 abovesaid in one house of the said three houses; and the same J B the same day and year in another of the same three houses; And the same A the same day and year in the third of the same three houses, so converted into new habitations inhabited, and in the same by the space of six months then next following with their families made their abode; which said J L and A before the division of the said mansion house abovesaid, in the said severall habitations, were not nor any of them were assessed to or for a Subsidy of the said Lady the Queen now to 1 s. in Goods, or three pounds in Lands at the Subsidy next before such division, or by two Justices of the peace next adjoining to the same house under their hands and Seals presented at the next Quarter Sessions then next following, were reputed or any of them was reputed fit and able to be assessed in Subsidy, according to the same rate, whereby the same P. hath forfeited & for every month of the same 6 months, wherein he permitted the same house to into severall habitations converted to be inhabited in forme abovesaid, in the whole amounting to 20 l. whereupon the same J who as well, &c. one moiety, according to the form of the Statute abovesaid, And as well for the said Wardens as for himself, demandeth the advice of the Court in the premises, &c. & Subpoena awarded with an imparlance, the Defendant pleads not guilty, &c.

P 36 Eliz. Rot. 1254. S B who, &c. that whereas one T L the 21 die Novem. Anno 32 having lawfull possession, and interest in 42 acres of Wood, within the age of fourteen years, and in four acres of Wood, above the age of twenty four years lying and being in the County abovesaid, the same twenty one day of Novem. Anno 32 abovesaid, and divers other dayes between the same twenty one day of November Anno 32 abovesaid, and the last day of April then next following the Wood; in and upon the same 42 acres of Wood and in and upon the same four acres of Wood growing at T abovesaid, cut or caused to be cut; And that the same P. after such cutting of the same Wood, to wit from the same last day of April Anno 32 abovesaid untill the day of the exhibiting of this Information, to wit the same 9 day of February Anno 34 sufficiently enclosed the same forty two acres of Wood, and four acres of Wood abovesaid, to keep and preserve the spring of the same Wood, so as in forme abovesaid cut, from the destruction of Cattle, according to the forme of the Statute in this Case late made and provided; notwithstanding one P A at divers severall times in every month of three months next before the day of exhibiting of this Information, in the same forty two acres of Wood, and four acres of the Wood abovesaid, against the will of the same T L with divers Cattle of the same P to wit Horses, Oxen, Cowes, & other Cattle brake & entered, and those Cattle the springs of Wood in the same 42 Acres of Wood and 4 Acres of the Wood abovesaid growing at divers severall times in every month of the same three months, depastured against the will and consent of the same T L permitted; By reason whereof the springs of the same Wood there growing by the whole time abovesaid, were wholly spoiled & destroyed, by the biting of the same Cattle, against

C c c c

the

Information
for destroying of
springs of
Woods, that
have been cut,
committed by
a stranger ag-
ainst the will
of the posses-
sor of the same
Woods, exhib-
ited against
the Stranger.

the form of the Statute aforesaid, and the same T. who aforesaid, &c. saith that of the said 62 acres of wood aforesaid, contain in it 4 foot with this that the same T. who aforesaid &c. will verifie that the said T. L. had lawfull possession and interest of and in the said 42 Acres of wood & 4 Acres of wood aforesaid and in every of them at the time of the cutting of the same, & continually afterwards had and yet hath whereby the said 42 pounds for every rood of wood ground, of the said 42 Acres, and 4 Acres of wood aforesaid so by him spoiled and destroyed for every month of the said three months 3 s. 4 d. by him according to the form of the Statute aforesaid forfeited whereof the same S. who, &c. one moiety, &c. the first issue is entered D. 36. Rot. 1254.

Privy Seal.

Pardon

H 5 E. 4 Rot. 39. in the Exchequer in Finchawes office Remember, &c. an Information for bringing of wares into England, from beyond the Seas by Vaudaine, a Merchant of Almaine, one of the Corporation of the Staple in England, pleads the letters patents of H. 3 and E. D. 1 made to that Corporation and the Statute of E. 4 Cap. 3 notwithstanding which plea judgment is given for the King and the Informer, and afterwards King Ed. 4 sends his privy Seal directed to the Barons of the Exchequer, to redeliver the wares and to commit the Informer to custody if he would not deliver the goods, notwithstanding that the judgment is that the Informer should retain his part, &c. See,

Information
for buying a
pretended
Title.

M. 31. & 32.
Elix. Rot.
1513. Brown-
low Salop.
Harris who,
&c. against
Barnes debt
upon the same
Statute for the
same offence.

H 9 J. Rot 2059. Best remembers that R. V. who aforesaid, &c. came before T. F. Knight one of the Justices, &c. here the 30 day of November Anno Ja. 9 in his proper person, and aforesaid for the same Lord the King as for himself gave to the same Justice to understand and to be informed, that one Margaret now the wife, of A. W. of &c. whilst she was sole, and Mary now the wife of T. D. whilst she was sole, unjustly pretending right and title to one mess. 1 barne and 5 acres of land with the appurtenances to the value of 60. pounds in the occupation of the same Robert Scituate lying, and being in the parish of Y in the same County of K. 30 day of May Anno &c. 9. at Y aforesaid bargained and sold to one I. H. of M. in the County aforesaid to him and his heirs the same right and title of and in the tenements aforesaid with the appurtenances, of which said tenements with the appurtenances neither the same Margery or Mary nor either of them nor their ancestors nor the nor they by whom nor by which the same M and M claim or either of them claim the same tenements with the appurtenances were in the possession thereof, neither in reversion or remainder thereof, nor received nor either of them received any rents or profits thereof, nor of any parcel thereof by the space of one whole year next, before the same bargain and sale thereof made, which said bargain and sale thereof the same I. H. (all and singular the premises sufficiently knowing) then and there to wit the same 30 day of May Anno, 9 aforesaid at Y aforesaid took and accepted against the form of the Statute in this Case made, and provided whereupon the same R. aforesaid, &c. as, &c. prayeth that the same R. H. may satisfy 60. l. for the value of the Tenements aforesaid, with the appurtenances by him against the form, of the Statute aforesaid in form aforesaid taken and accepted, & that the same R. who, &c. may have the moiety thereof according, to the form of the Statute aforesaid, and the same R. who, &c. As, &c. prayeth the advice of the Court in the premises and due process of Law against the same I. H. in this behalf, to be made, and that the same I. H. may come into Court to answer aforesaid to the said Lord the King, as to the same R. in the premises, &c. Pledges to prosecute Jo. D. R. R.

M 12. Jac. Rot. 746, Brownlow Leic. ff. Be it remembered that T S who came here into the Court the 10 day of October that same Term in his proper person, and exhibited to the Justices here a certain Information against S. C. Gentleman, the Tenor of which Information followeth in these words, to the Justices of the common bench, Leic. ff. Be it remembered that the 10 day of October that same Terme came here into the Court T S who as well for the Lord the King as for himself in this behalf followeth, in his proper person and as well for the said Lord the King, as for himself giveth the Court here to understand and to be informed that whereas in the Statute in the Parliament of the Lady Eliz. late Queen of England at Westminter in the County of Middlesex Anno 29 amongst other things it was enacted by authority of the same Parliament, that it should not be lawful after the first day of May then next following to or for any Sheriff or Bailiff of any Franchise or liberty, nor for any of them nor for any of their Officers, Ministers, Servants, Writters or Deputies, nor any of them by reason or colour of their, or any of their office or offices, to have receive or take of any person or persons, directly or indirectly, for serving or executing of any extent or execution upon the body, lands goods or Chattells of any person or persons whatsoever, any greater or other consideration or recompence than in the same act is and should be limited and appointed, which should be lawful to be had received and taken, to wit, 12 d. of and for every 20 s. where the Sum exceedeth not 100. l. and 6 d. of and for every 20 s. being beyond and above the same Sum of 100 l. which he or they should so levy extend and deliver in execution, or should take the body in execution by vertue and vigour of any such extent or execution whatsoever, under the punishment and penalty that all and singular such Sheriffs under Sheriffs Bailiffs of Franchises or Liberties, or the Writters, Servants, Officers, Bailiffs or Deputies of them or any of them, who at any time after the same first day of May next following after the making of the said Statute should directly or indirectly do to the contrary, should loose and forfeit to the party grieved, his treble damages, and forfeit the Sum of 40 l. of good and lawful money of England, for every time which he or they, or any of them should do to the contrary, the one moiety whereof should be to the said Lady the Queen her Heires and Successors, and the other moiety to the party or parties who shall follow for the same, by complaint Action, Suit, Bill or Information, wherein no Cloga wager or protection shall be allowed as by the same act, more fully appeareth. Notwithstanding one S C late under-Sheriff of one I L Knight late Sheriff of the County of Lincoln not regarding the same Statute the 29 day of May Anno, &c. 11. at L in the County of L aforesaid then being under Sheriff of the said I L Sheriff of the County of L. extorted by colour of his office of under-Sheriff by himself and one R R then his servant had and received of one G G Gentleman for the execution of a Certain Writ of the said Lord the King of F. ac. out of the Court of the said Lord the King, here of the Common bench, here to wit at W. in the County of Middlesex issuing at the suite of the same G against one I G upon a certain judgment, for the same G against the said I in the same Court of the Common Bench, directed to the then Sheriff of Lincoln of cause, ing to be made of the Lands, and Chattells of the said I as well a certain Debt of 25 l. which the same G in the said Court, had recovered against him as 45 s. 8 d. which to the same G in the said Court, were adjudged for his damages which he had by occasion of the detaining of that Debt, for the levying of 14 l. parcel of the said Debt and damages in the same Writ specified, beyond the rate of 12 d. for every 20 s. by the same S C delivered in execution by vertue of the same Writ, to wit 36 s. for the delivery of the said 14 l. against the form of the Statute aforesaid whereupon the same T S who, &c.

Information against an Under-sheriff for execution by vertue of his office of Excessive fees in levying of moiety upon a *Firifac*, exhibited by a Common informer for the moiety of the penalty 29. *Eliz. cap. 4. M. 24. and 25. Eliz. rot. 30.* 31 extortion against a Serjeant at Law upon an Information.

Extortion of fees to wit for taking 26 s. for levying 14 l. Parcel of the debt and damages of 27. l. 6 s. 8. d. upon a *Firifac*. out of the Common-Bench.

Subpoena a-
warded.

prayeth the advice of the Court here in the premises; And that the said S C may forfeit 40 l. for his said offence against the forme of the Statute aforesaid acted and committed; And that the same T who aforesaid, &c. may have the moiety of the said forfeiture, according to the forme of the Statute aforesaid; And that the same S may come here into the Court to answer of, and upon the premises and Pledges to prosecute J D, Richard Ro. And hereupon it is commanded to the said S that all other things set apart, &c. be in his proper person before the Justices of the Lord the King, here, to wit, at Westminster upon Monday next after xv. Martini next coming to answer aforesaid to the said Lord the King, as to the same T who, &c. in and upon the premises farther to do and receive what the same Court of the said Lord the King here, shall consider of it in this behalf, &c. At which day here came aforesaid the same T who, &c. in his proper person as the same S by G B his Attorney of the favour of the Court here specially admitted; And hereupon the same T who aforesaid, &c. prayeth that the said S unto the premises in his Information aforesaid may answer, &c.

And the same S by his Attorney aforesaid defendeth the force and wrong, when, &c. And all contempt, &c. And whatsoever, &c. And prayeth the hearing of the Information aforesaid; And it is read unto him, &c. which being read and heard, and by him fully understood, the same S prayeth imparlance untill Monday after Oct. Hill, And hath it &c. the same day is given to the said T who aforesaid, &c. here, &c.

An Information for converting of arable land into pasture ground 59. Eliz. cap. 2.

M. 20. Jac.
Rot. 899.

H 7 Jac. Rot. 1612. Hunt. ff. Be it remembred that W W who aforesaid for the Lord the King as for himself followeth, came here into the Court the twenty seventh day of January, that same Terme in his proper person; And aforesaid for the said Lord the King as for himself, giveth the Court here to understand and be informed that 2000 acres of land with the appurtenances in B and L in the same County of H the 14 day of October Anno Eliz. R. 39 were used for Tillage; the same lands being before tillable lands; such as before the Commission, according to the nature of the ground and course of Husbandry in that part of the Country used. At which said 2000 acres of Land one J C Knight, Lord C 27 day of January Anno R. 6 and long before, and continually afterwards, untill the same day of exhibiting of this Information was, and yet is occupier and possessor; And his occupation and possession thereof from the same 27 day of January Anno 6. abovesaid; And from thence untill the day of exhibiting of this Information continued; the same J Lord C the same 27 day of January Anno 6 abovesaid, or sometime afterwards, before the day of exhibiting of this Information, the same 2000 acres of Land or some parcell thereof discontinued in the use of Tillage, or for Tillage according to the forme of the Statute of the year of the said late Queen Eliz. Anno 39 abovesaid. in this Case made and provided; but the same J Lord C during the whole time abovesaid, to wit, the same 27 day of January Anno 6 abovesaid; And continually from thence untill the day of exhibiting of this Information, to wit, by the space of one whole year, the same 2000 acres of Land and every parcell thereof continued and kept, and yet keepeth for pasture, and for depasturing of Sheep and herbage for fattening of Cattle, against the forme of the same Statute; By which action accreteth to the same W to demand and have of the same J C Lord C for the said Lord the King, and for himself 2000 l. to wit for every acre of the said 2000 acres of Land, so as aforesaid not restored xx s. by the same J according to the forme of the Statute of Anno 39 abovesaid forfeited; whereof the same P prayeth a third part according to the forme of the same Statute; And aforesaid for the same Lord the King as for himself prayeth the advice of the Court in the premises, and due Process of Law against the same J in this behalf

Restitute.

behalf to be made, to answer aswell the said Lord the King, as to the said W who, &c. in the premises, &c. Pledges, &c. whereupon it is commanded to the said J that all matters set apart, &c. he be here such a day next after 15. Pas. to answer, &c.

Subpœna awarded.

M 14 Jac. Rot. 2220 Tillet who aswell, &c. against Donne Information upon the Statute for Recusancy 23 Eliz. the Defendant pleads a conviction to the Statute of 29 Eliz. Cap. 6. at the Justice Hall in the Old Bayly. And the same J D further saith, that he in Michaelmas Terme next following, his said conviction paid not into the Exchequer of the said Lord the King; now according to the rate of 20 l. for every month contained in the said Indictment, whereupon he was convicted; nor paid after such conviction into the same Exchequer, in the same Michaelmas Terme so much as remained unpaid, according to the rate of 20 l. for every month, after such Conviction, but made default therein; whereby the said Lord the King now by Process out of the same Court, may take, seise, and enjoy all the Goods, and two parts aswell of all the Lands and Tenements and Hereditaments, Demises, and Farmes of the same J D as of all other Lands, Tenements, and Hereditaments liable to such seisure or penalty, by the true intent of the same Act of the year abovesaid, aswell for Cxx l. for the same six months in the Indictment aforesaid specified. As for 20 l. for every month from thence following, untill the day of exhibiting of this Information, with this that the same J D will verifie that he the same J D in the Information, &c. And the same J D in the Indictment, &c. named are one and the same person: And this, &c. whereupon he prayeth judgement of the Information, &c. if the same Tillet who aswell for the said Lord the King as for himself; for the same Cxx l. in forme aforesaid specified, or any parcell thereof ought to follow, &c. the Plaintiff pleads no such Recozd of conviction and issue thereupon; And a Certiorare was awarded to the Justices of the Peace; And the Recozd was certified by the Custos Rot. being one of the Justices, And for that the Indictment was before the Justices of the Gaol delivery, the Certiorare was ill awarded; And thereupon a new Certiorare was awarded to the Justices of the Gaol delivery.

Information upon the Statute of 23 E. 10. The Defendant pleads conviction as to the Statute of 29 Eliz. Cap. 6. the Plaintiff replies null tiell Record.

P. 14. Jac. Rot. 1280. between P. & G.

P 6 Jac. Rot. 218 Brownlow ff. Be it remembred that E W who, &c. followeth, came here into the Court the 13 day of April, that same Terme in his proper person, And exhibited to the Justices here a certain Information against H B the Tenor of which Information followeth in these words; To the Justices of the Common Bench Middlesex ff. Be it remembred that E W who aswell for the said Lord the King as for himself followeth came here into Court the 13 day of April, that same Terme in his proper person; And giveth the Court here to understand and to be informed, that whereas in the Statute in the Parliament of the said Ed. late King of England the third Anno, &c. 27 held, amongst other things it was enacted, by the authority of the same Parliament, that all and every under the leagueance of the said Lord the King, of whatsoever condition they shall be, who shall implead any one out of the Kingdome, whereof the Cognizance belongeth to the Court of the King, or of things wherein judgement is given in the Kings Court, or who shall sue in any Court, to defraud or impeach any judgement given in the Kings Court, should have day given by the space of two months, to be premonished in the place, where their possessions are which should be in debate, or elsewhere where they have Lands or other possession, by the Sheriff or other ministers of the said Lord the King, that they should be before the said Lord the King or his Councill, either in his Chancery, or before his Justices to stand to the Law. And that they, their Procurators, Attornies, Executors, &c. from thenceforth afterwards

Information upon the Statute of 27 Ed. 3. upon premonition Cap. 1. for suing in the Court of Requests to Impeach a judgement given in the Bench, &c.

D o d d d

Should

should be put out of the Kings protection, and that their Lands, Goods, and Chattels should be forfeited to the King, and that their bodies should be taken wheresoever they should be found, and be imprisoned and ransomed at the Kings pleasure; And thereupon a Writ should be made to take their bodies, and to seize their Lands, Goods, and Possessions into the Kings hands; And if it shall be returned that they are not found, that then they be put in exigent to be outlawed; As in the same Statute amongst other things is more fully contained; And whereas the same E in Trinity Terme Anno 3. before the Justices of the same Lord the King of the Bench, here to wit, at Westminster, in the County of Middlesex by the consideration of the same Court, recovered against H B of 8cc. 16 l. for his damages, which he sustained by occasion of a certain Trespass to the same E by the said H at C aforesaid in the County aforesaid done, to wit for that the same H B the first day of February Anno Eliz. R. 45. with force and Arms, a certain Bill obligatory, wherein is contained that the same H B by the same Bill acknowledged himself to owe to one R W in his life time Cs. of lawfull mony of E. to be paid to the same R at a certain time then past, contained in the same Bill, in the custody and possession of the same E then, and there being by the reason of the executing of the will of one D W being Executor of the Testament of the said R W at C aforesaid, took and carried away; in the delay of the execution of the same will, whereof the same H was convicted. Nevertheless the same H not ignorant of the premises the same Statute not regarding, And the same Lord the King now, and his Regall Crowne, inasmuch as belongeth to the said Lord the King now, to disinherit; And minding the same E against the due forme of Law of this Realm of England, unduly and against right to oppress weary and hinder, And also him in his body, Goods, and Chattels very much to disquiet, trouble and oppress; And also the Common Law of this Realm of England, which of right belongeth to every Subject of the said Lord the King now, to derogate, and defraud, and subvert the due course of Law; And also the same judgement, before the same Justices of the said Lord the King here, to wit at Westminster aforesaid, in some aforesaid given to impeach, defraud, and adnull, And the same E after the same judgement given, into another Court, to wit, into the Court of Requests, before the Masters of Requests of the same Court at Westminster aforesaid, in the County of Middlesex then being to adnull and impeach the same judgement, in the same Court here in some aforesaid given drew into Plea; And the same E in the same Court of Requests, before the same Masters of Requests of the same Court of, and upon the premises to appear; And to the same H therein, against the Law and Custome of the said Lord the King of England, and against the forme of the Statute aforesaid to answer, hath unjustly constrained; And although the same E according to the Law of the Land of this Realm of England, in due manner prosecuted his action aforesaid in the same Court of the Bench aforesaid, against the said H and thereupon had and obtained judgement as is premised against the same H in the said Court here; which said judgement, so as aforesaid given, yet remaineth in strength and force; And although the same E the same judgement by the said Court of the Bench here, for the same E against the said H in some aforesaid given, into the same Court of Requests, before the Masters of Requests of the same Court in the discharge of the premises, in the same Court of Requests against the same E by the said H there declared and alledged; pleaded and the same with inevitable truth, and by the Record in the same Court here remayning offered to prove; Nevertheless the said Masters of Requests of that Court, would not admit of that Plea and allegation, but altogether refused; And the same notwithstanding the same Plea, allegation and probation, the same judgement, for the same E against the same H of and for the

cause aforesaid so as beforesaid given, to aduall e vacate and impeach, with his whole strength indeaboured and yet prosecuted, and many other things very prejudicial and hurtfull to the Crown of the said Lord the King, against his due allegiance, befoze the said Masters of Requests and elsewhere hath attempted and procured to be done in contempt of the said Lord the King now and manifest perill of the disinheriting of the Crown, and against the form of the Statute aforesaid, and against the laws liberties and customes of this Realm of England, and against the peace of the Lord the King now, hath done and procured whereupon the same E the Ayde and munificence of the Court here and due Proces of Law against the said H B for the said Lord the King prayeth the aduise of the Court in this behalf to be given to answer to the said Lord the King now in the premises, &c. And hereupon it was commanded to the said H B that all other things omitted, &c. Such a day, &c. To answer, &c.

Subpœna awarded.

H 4. J. 1. Rot 317. Brownlow, Be it remembred as in others, &c. City of Bristol ff. Be it remembred that T C who aswell for the said Lord the King as for himself giveth the Court here to understand & to be Informed that one J B of C B Merchant between the first day of June Anno 8. 4 and the 30 day of August then next following, in a certain Ship called the P of B brought & carried into this Kingdom of England unto the Port of the City of B in the County of the same City by way of Merchandizing 50 hoggs heads of Alum to the value of 1000. l. as of the proper goods & Chattels of the same I & the same 50 hoggs heads of alum out of the same Ship in the port aforesaid, unto land there within the time aforesaid carried and placed and the same took and tarried from thence, custome Subsidy poundage & other Debts to the said Lord the King, therefoze due not being paid, nor any agreement or composition with the Collector thereof or his deputy, with or by the consent knowlege and agreement of the Comptroller or Superbisor in that behalf assigned, or of one of them therein had or made against the form of the Statute in this Case made and provided, whereupon the same T C who aswell &c. prayeth the aduise of this Court, and that the said J may forfeit the goods and Chattels aforesaid according to the form of the Statute aforesaid, and that the same T C the moiety of the value of the same goods and Chattels so forfeited may have, &c. according to the form of the Statute aforesaid, and that the same I B may come here into Court to answer in and upon the premises, &c. Pledges to prosecute I D and R R.

An Information for taking away goods; imported and not paying the customs, &c.

M 10 J. c. Rot. 2158. Waller, Be it remembred that E S of London Gentleman, who aswell for the said Lord the King as, &c. Informeth the Court the 5 of October Anno 10 that one E C, &c. ingrossed between the first day of November last past and the day of exhibiting of this Information at the City of Westminster, &c. 300 quarters of Wheat, the price of every quarter thereof 30 s, &c.

Information upon the Statute of 5 Eliz. c. 13. for ingrossing of Corn.

And the same E C by, &c. defends the force and wrong when, &c. And all contempt and whatsoever, &c. And prayeth the hearing of the Information aforesaid, and it is read to him, &c. which being read and heard the same E saith that he doth not intend that the said Lord the King, or the same E S should or ought further to charge the same E by occasion of the premises because as to the buying of 270 quarters of Wheat of the said 300 quarters of Wheat in the Information aforesaid above specified the same E C saith that he is in no wise guilty thereof, and of this he putteth himself upon the Countrey, and the same E S who aswell, &c. likewise and as to the buying of 30 quarters of Wheat of the same 300 quarters of Wheat in the Information aforesaid above specified the same E C saith that the said Lord the King or the same E S

Not guilty to part.

To the other
part he plead-
eth liberty
given by the
Justices of
peace.

The like justi-
fication for
the residue.

The place tra-
versed.

Judgment up-
on the demure
for the Infor-
mer.

ought not to charge

the same E C by occasion of the buying of the same 10 quarters of Wheat, because he saith that before the exhibiting of the said Information to wit the 7 day of Jan. Anno R. 8 one R L Knight S^r Knight and IS Esquire, Justices of the said Lord the King to keep the peace in the said County of Hertford, and also assigned to heare and determine divers felonies trespasses & other misdemeanors in the same County of Hertford committed at the Generall Sessions, of peace of the said Lord the King held at H in the County of H the same 7 day of Jan. An. 8 abovesaid, by their certain Writing bearing date at H aforesaid Sealed and Signed with their own hands and Seales in the open Court at the Sessions of peace afoze, said the same R L being then of the Quor. did license, admit, assign and allow the same E C by the name of E C of K in the County of H Galtman to be a common Badger, a Carrier, and buyer of all manner of Cozn whatsoever in open Markets and fayres onely and not elsewhere to use and occupy the same Office according to the tenor and true intention of the Statute of 5 Ed. 6 as of the Statute of Anno 5 Eliz. against Fozeallers, Regrators, and Ingrossers made, from the day of the date of the same Licence, for and during the space of one whole year then next following as by the same Writing brought here into the Court more fully appeareth and is manifest. By vertue of which licence the same E C afterwards to wit between the same first day of Novem. ber in the Information above specified, and the said 7 day of Jan. An. 9 abovesaid the same 30 quarters of Wheat in open Markets and Fayres within the same County of H bought, with the intention to sell the same Wheat againe, as to him it was lawfull; And as to the buying of 20 quarters of Wheat of the same 30 quarters of Wheat residue, the same E C saith that the said Lord the King or the said E S ought not, &c. because he saith that long before the exhibiting of the Information, aforesaid, to wit the 13 day of Jan. Anno 9 Sec. one IH Knight as above in all things, as by the same Writing hereinto Court brought, it doth more fully appear, By vertue of which licence the same E C afterwards, to wit between the day of the date of licence aforesaid to wit the 13 day of Jan. and the day of exhibiting of the same Information the same 20 quarters of Wheat of the same 300 quarters of Wheat residue in open Markets and Fayres within the same County of H bought with the intention to sell the same Wheat againe, as to him it was lawfull, with this that the same E will verifie that he the same E at the same times of the grants of the said severall licences, at K. aforesaid was married and an Householder and of the age of 30 years, and then inhabited within the same County of H by the space of 3 years next before the date of the said severall licences, without that the said E the same 30 quarters of Wheat or any parcell thereof in the same County of Middlesex bought, as the same E S who aforesaid &c. by his Information aforesaid above supposed, and this he is ready to verifie, whereupon he prayeth judgment if the said Lord the King or the said E S ought, &c. The Informer demurs to the Bar, And the defendant joyns in demurrer, and the parties have day by the continuance of the issue and demurrer untill Friday next after Cras. Trin. 11. Jac. at which day here came aforesaid the said E S who aforesaid, &c. in his proper person as the said E C by his Attorney aforesaid, and here upon the premises being seen, And by the Court there fully understood, whereupon the parties abovesaid put themselves upon the judgment of the Court, it seemed to the same Justices here that the same Plea of the same E C as to the ingrossing and obtaining into the hands of the said 30 quarters of Wheat of the same 300 quarters of Wheat in the Information aforesaid specified residue, is insufficient in law to barr the same E S who aforesaid &c. from having his Information aforesaid against the same E C thereof, therefore it is considered that the said E S who aforesaid &c. recover aforesaid for the said Lord the King as for himself against the said E C 45 l for the value of

of the said 30. Quarters of Wheat; And that the said Lord the King have the one moiety thereof, And that the said E S have the other moiety thereof; And the same E C be taken, &c. the issue was further continued but never tried, &c.

T 13 Jac. Rot. 3317. Waller. Otherwise as it appeareth in Mich. Terme last past Rot. 3345. It is thus contained London ff. Be it, &c. That H H Knight and Baronet, Chief Justice, &c. present here in Court the 10. day of October, that same terme in his proper person, by his own hands delivered into the Court here a certain Information befoze him the 12. day of September last past, by E S exhibited against one E F of, &c. the Tenor of which Information followeth in these words; To the Justices of the Common-Bench London ff. Be it remembred that E S who aswell, &c. came befoze H H Knight Chief Justice, &c. the 12 day of September An. 12 in his proper person; And aswell for the said Lord the King as for himself, giveth the Court here to understand and to be informed, that one E F of I in the Countie of E Peoman, between the first day of November last past, and the day of exhibiting of this Information at London in the Parish of Saint Mary Bow in the Ward of Cheap, did ingross and obtain into his hands and possession by buying, and not by demise granting, or setting of Land or of Tithes of others persons, whose names to the same E S are yet unknown, forty Quarters of Barley, the price of every Quarter thereof twenty Willings, with the intent that the same Barley and every parcell thereof should be sold again, against the forme of the Statute in this Case late made and provided, where- by the same E F for his first offence hath forfeited 40 l. of lawfull mony of England, to witt the value of the same Barley; so by him in manner and form aforesaid, and against the forme of the Statute aforesaid bought and ingrossed, whereupon the same E S aswell for the said Lord the King, as for himself prayeth the advice of the Court in the premises; And that he the same E S may have the moiety of the forfeiture aforesaid, according to the forme of the Statute aforesaid; And that the same E F be reputed an unlawful ingrosser and suffer Imprisonment of his body by the space of two months without Baple or Mainprise; And also that the said E F may come here into the Court, to answer in and upon the premises, &c. Pledges to prosecute; And hereupon it is commanded to the same E F that all other things set a- part and all excuses waived he be in his proper person upon Monday next after Octob. Hill. to answer in and upon the premises, &c. At which day here cometh aswell the said E S who aswell, &c. in his proper person, as the same E F by T L his Attorney herunto by the speciall labour of the Court specially admitted; And hereupon the same E F defendeth the force and wrong when, &c. And all contempt and whatsoever, &c. And prayeth the hearing of the Information aforesaid. And it is read unto him, &c. which being read and heard the same E F prayeth Licence thereof to imparle here untill 15. Pas. And hath it, &c. The same day, &c. At which day here came aswell the said E S who aswell, &c. in his proper person; As the same E F by his Attorney aforesaid; And so further continuance untill Friday next after Com. S. Trin. &c. And the same E S who aswell, &c. prayeth that the said E F unto the premises in the Information aforesaid contained, may answer, &c. And the same E F by his said Attorney, &c. as befoze, &c. And it is read unto him, &c. which being read and heard, the same E F as to all the premises in the Information aforesaid above specified, & objected to him as is aforesaid, between the 28 day of May last past befoze the day of exhibiting of this Information to witt the 12. day of E. then next following above supposed to be done, And also as to all the premises aforesaid above specified between the same first day of No. in the same Information specified & the same 20. day of May above supposed to be done, saith that he is in no wise guilty thereof, as the same E S who aswell, &c. by his Information aforesaid above thereof supposeth, And of this he putteth himself upon the Country, And the same E S who aswell, &c.

Taken.

For ingrossing
of Corne.

Not guilty
for part to the
residue he
pleads a for-
mer Informa-
tion exhibi-
ting and de-
pending in the
Kings Bench
for the same
cause.

C e e e

likewise;

likewise; And as to the ingrossing and obtaining into his hands and possession of the same four hundred Quarters of Barley, the residue in the Information aforesaid above specified, between the same first day of November in the same Information above specified, and the same 28. day of May above supposed to be done, the same E F saith that the said E S who aswell, &c. ought not to impeach the same E F for that occasion, nor bying his action thereof, because he saith that before the day of exhibiting of this Information, to wit upon Saturday next after Mens. Paich. Anno R. 12. abovesaid, came into the Court of the said Lord the King at Westminster one T T who aswell for the same Lord the King as for himself in that behalf followed in his proper person; And aswell for the said Lord the King as for himself, gave to the Court here to understand and to be informed, that the same E F between the last day of September Anno R. &c. 11. and the day of exhibiting of that Information at the City of Westminster in the County of Middlesex, did ingross and obtain into his hands, by buying and contracting with divers persons, whose names unto the said T T were then unknown three hundred Quarters of Barley, value of every Quarter thereof thirty Shillings, three hundred Quarters of Wheat, value of every Quarter forty Shillings, three hundred Quarters of Rye value, every Quarter thereof thirty Shillings, two hundred Quarters of Oats, value of every Quarter thereof thirty Shillings, and three hundred Quarters of Pease, and Beans value of every Quarter thereof twenty Shillings of lawfull money of England, with the intention to sell again the severall grain aforesaid, and every parcell thereof, against the forme of the Statute in this Case made and provided, whereby action accrued to the said Lord the King, and to the same T T who aswell, &c. to have and demand of the said E F

1. of lawfull money of England, to wit the value of the severall Grain aforesaid; so by him ingrossed, and against the forme of the Statute aforesaid forfeited, whereof the same T demanded one moiety, which said Information by the same T against the same E F in the same Court of the same Lord the King, before the same King exhibited, yet remaineth in his full strength and effect not discontinued nor determined; As by the Record thereof in the same Court of the said Lord the King, before the same King at Westminster remainyng more fully is manifest and appeareth; And this he is ready to verifie, whereupon he prayeth judgement of the same E S who aswell, &c. ought further to impeach or sue the said E F therein; with this, that the same E F will verifie, that the said three hundred Quarters of Barley, in the same Information by the said T T in the Court of the Lord the King before the said Lord the King exhibited are and were parcell of the said four hundred quarters of Barley in the same Information by the said E S in the Court here exhibited above specified, and no other nor divers; And that the same E F in the Information of the said T T above named; and the same E F in the said Information of the said E S above named are one and the same person, and no other neither divers, &c.

And the same E S who aswell, &c. are to the same Plea of the same E F as to the ingrossing and obtaining of the said three hundred Quarters of Barley, of the said four hundred Quarters of Barley, residue in the Information aforesaid, by the same E exhibited as is aforesaid above specified, between the same first day of November, and the same 28. day of May by the same E F above made saith that he ought not to be barred, because he saith, that the same Information by the same T in the same Court of the said Lord the King, before the same King against the same E F above supposed to be exhibited was not exhibited by the same T according to the forme of the Statute in that behalf made and provided; As the same E F in his bar aforesaid, hath above supposed; For Plea the same E who aswell, &c. saith, that the same Information by the same T against the same E F in the same Court of the

said Lord the King befoze the same King was exhibited by fraud and Cobin between the same E F and the same T T at London in the Parish and ward aforesaid befoze had the said Lord the King now and the same same E who &c. of the fozefture to the same Lord the King, and to the same E who &c. due by occasion of the unlawfull ingrossing and obtaining of the said 300 quarters of Barley of the said 400 quarters of Barley residue to defraud and deceyfe, and this the same E S who, &c. is ready to verifie from whence for that the same E F above acknowledgeth the unlawfull ingrossing and obtaining of the same 300 quarters of Barley the same E who, &c. prayeth judgment and the value of the said 300 quarters of Barley so by him the same E F in sozm aforesaid fozefted to the same Lord the King, and to the same E S who, &c. to be adjudged, &c.

The Informer saith that the said Information was exhibited in the R. Bench in fraud &c.

And the same E F saith that the said Information by the same T against the same E F in the same Court of the said Lord the King as is aforesaid exhibited was exhibited by the same T against the said E F bona fide, with the intent to recover the fozefture aforesaid in the same Information contained against the same E F without that the same Information was exhibited by the same T by fraud and Cobin between the same T and the same E F befoze had in manner and sozm as the same E S who atwell, &c. above in his replication hath alleddged, and this he is ready to verifie, whereupon he prayeth judgment and that the same E S who, &c. from having his Information aforesaid against the same E F may be barred &c.

The defendant saith that the said Information was exhibited bona fide, and traverseth the fraud.

And the same E who, &c. as befoze saith that the Information aforesaid was exhibited by the same T T by fraud and Cobin between the same T and the same E F befoze had in manner and sozm as he hath in his replication above alleddged, and this he prayeth may be inquired of by the Countrey, and the same E F likewise theretofore as well to try that same issue as the same other issue between the parties aforesaid above, joyned the Sheriffs are commanded that they cause to come here upon Wednesday next after Trif. Tiin. 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because atwell, &c.

Issue upon that travers.

M 15. Jo. Rot. 274. Fanshawe and Michel, amongst the Pleas of the Crown in the Kings Bench, Be it remembered that T F Esquire Coroner and Attorney of the Lord the King befoze the same King in Trinity term Anno 14 J. R. by his own hands delivered here into the Court of the said Lord the King befoze the same King at Westminster then there a certain Information by R P in person, appointed as an Officer to receive the same of the same T according to the sozm of the Statute thereof made and provided the 18 day of May Anno 14 abovesaid delivered, which followeth in their words. Be it remembered that R P who atwell for the said Lord the King as for himself in this behalf followeth in his proper person, giveth the Court here to understand and to be informed, that one I of N in the County of S Knight and K his wife which said K the 18 day of May Anno R Ja. 13 was of the age of 16 years and above, and then and yet wife of the same I and which same K the same 18 day of May Anno 13 abovesaid and alwaies afterwards hitherto was dwelling and inhabiting within this Realm of England, that is to say at N aforesaid in the County aforesaid, and from the same 18 day of May Anno 13 abovesaid untill the 18 day of May Anno R &c. 14 that is to say by the space of 12 whole months, did not repair to the Parish Church of N aforesaid in the County aforesaid, nor to any other Church Chappell or usuall place of Common prayer, and there remained the time of the Common prayer and divine service. But by the whole time aforesaid voluntarily and obstinately without any reasonable cause hath forborn the same against the sozm of the Statute in this Case made and provided,

Information upon the Statute of Recusancy.

Conviction of
the wife plead-
ed in Barr.

whereby action accrewed to the said Lord the King, and to the same R P who
attwell for the same Lord the King as for himself in this behalfe followeth, to
demand and have of the same I and K 240 l. of lawfull money of England to
wit for every moneth of the same 12 moneths wherein the same K absented
herself as is aforesaid from her parish Church aforesaid, and from all other
Churches Chappells or usuall place of Common prayer 20 l. by the same K
according to the form of the Statute aforesaid forfeited, whereof the same R
P prayeth one third part according to the form of the same Statute, and as-
well for the said Lord the King as for himself prayeth the advice of the Court
in the premisses and due Procces of law against the same I and K to be made
in this behalf, to answer aswell to the said Lord the King as to the said R P
of and upon the premisses, &c. whereupon the Sheriff was commanded that
he omit not for any liberty &c. but that he attach them to answer, &c. And
now here, to wit upon Thursday next after Octab. Mich. that same Term
before the said Lord the King at Westminster came the same I W and K his
wife by W H their Attorney, and having the hearing of the Information a-
foresaid say that the same R P who attwell, &c. by reason of the premisses in
the Information aforesaid above specified, the same I and K ought not to sue
or impeach because they say that the Statute aforesaid in the Information a-
foresaid above specified was made in the Parliament of the Lady Eliz. late
Queen of England, held at Westminster, in the County of Middlesex, the
fifteenth day of January, Anno Regni 23. And that after the making of the
said Statute, to wit in the Parliament of the said late Queen Eliz. held at
Westminster aforesaid in the same County of Middlesex, the twenty ninth day
of October Anno Regni 28. and from thence continued by prorogation
untill the fifteenth day of February from thence next following, amongst o-
ther things, it was enacted by the Authority of the same Parliament, that e-
very offender in not repaying to divine service, but absenting from the same
against the Statute of the year, 23 of the said late Queen, who from thence
shall happen to be once thereof convicted, in Easter term or Michaelmas term,
which should be next after such Conviction, should pay into the receipt of the
Exchequer of the same late Queen according to the rate for every month
which should be contained in the Indictment whereupon such a conviction
should be; and also for every month after such conviction, without any other
Indictment or conviction should pay into the said receipt of the Exchequer a-
foresaid at two times in the year, to wit in every Easter term and Michaelmas
term so much as then should remain unpaid according to the rate of 20 l. for
every month after such conviction, and if default should be made in any
part of any payment aforesaid, contrary to the form in the same Sta-
tute of twenty eight abovesaid limited, that then and as often the
Queens Majestie shall and may by Procces out of the same Exchequer,
take, seise, and enjoy all the goods, and two parts aswell of all the
Lands Tenements and Hereditaments leases and Farms, of such
offender, as of all other Lands Tenements and Hereditaments liable
to such Seisure or penalty as aforesaid, by the true intent of the
same Act, leaving the third part of the same Lands, Tenements, and Here-
ditaments, Leases, and Farmes to and for the maintenance, and relief of
the same offender, Wife, Childzen and family. And for the moze speedy con-
viction of such offender, in not repaying to divine service, but forbearing of the
same contrary to the said Statute; It was enacted by the authority of the
same Parliament, that upon the Indictment of such offender, a Proclamation
should be made at the same Assizes or Gaole delivery, in which the Indict-
ment should be taken, whereby it should be commanded that the body of such
offender, should be rendred to the Sheriff of the same County, before the
said next Assizes, or generall Gaole delivery, to be held in the same County;
And

Se the words
of the Statute.

This is not
pleaded ac-
cording to the
Statute of 29.
Eliz. cap. 6.
for it is before
the next As-
sises or gene-
rall Gaole de-
livery.

And if at the said next Assizes or Gaol delivery, such offender so proclaimed should not make appearance of Record, that thereupon such default Recorded, the same shall be a sufficient conviction in Law of the said offence, whereof the party so standeth indicted as is aforesaid, & as if upon the same Indictment a trial by Verdict thereupon had proceeded and been Recorded; And the same J W and K his wife further say, that by a certain Act in Parliament of the Lord James now King of England, &c. held at Westminster aforesaid, the said 19. day of March Anno, &c. of England, France, and Ireland, the first and of Scotland the 27. and continued by divers Prorogations, untill the second session of the same Parliament held at Westminster aforesaid the 5. day of November Anno E. F. and I. the third, and of Scotland the 39. and then continued untill the 27. day of May then next following; And from thence prorogued untill the 18. day of November then next following, at the same second session of the same Parliament, amongst other things it was enacted by authority of the same Parliament; That the Justices of Assizes and Gaol delivery at their Assizes; And the Justices of Peace at their generall and Quarter Sessions of Peace, should have power and authority by vertue of the same Act of Parliament, to inquire hear, and determine of all Recusants and offences, as well for not receiving the Sacrament of the Lords Supper, according to the true meaning of the same Law; as for not repairing to Church according to the meaning of former Laws in such case before enacted, in such manner and forme as the Justices of Assizes and Gaol delivery, then did or ought then to do by former Laws, in the Case of Recusancy; for not repairing to Church; And also should have power at their said Assizes and Gaol delivery, And at the Sessions in which any Indictment against any person, either for not repairing to Church according to former Laws, or not receiving the said Sacrament, according to that Law should be taken, to make Proclamation, by which it shall be commanded that the body of every such offender, should be rendred to the Sherifff of the same County, or Bailiff or other Keeper of the Gaole of the Liberty before the next Assizes, and generall Gaol delivery, or before the next generall or Quarter Sessions, respectively to be held for the said Shire, County, Division or Liberty, and if at the next assizes and generall Gaol delivery or Sessions, the same offender so proclaimed shall not make appearance of Record, that then upon every such default Recorded, the same should be a sufficient conviction in Law of the said offence, whereof the party should stand indicted as aforesaid as if upon the same indictment a trial, by verdict had been thereupon, had proceeded and been found against him or her and Recorded; As by the same Statute amongst others it more fully appeareth; And the same J W and K his wife further say, that afterwards and before the exhibiting of this Information to wit at the Assizes and generall Gaol delivery held at the Castle of W in the County of S upon Sunday the eight day of August Anno R. of England, France, & Ireland, the 12. and of Scotland the 47. before H H Knight and Baronet, and Chief Justice, &c. and J L Chief Baron, &c. Justices to take the assizes in the same County; And also at the same generall Gaol delivery, in the same County to discharge Prisoners therein being, and also assigned to hear and determine divers Felonies, Trespasses, and other misdemeanours in the same County done, the same K W by the name of K W wife of J W late of N in the County aforesaid Knight, by the Oath of R C Esquire, H R Esquire with seventeen others, honest and lawfull men of the body of the said County of H who were charged and sworn to inquire for the Lord the King, and the body of the County aforesaid, was indicted, for that, whereas the same K W who the first day of April Anno, &c. 12. & Sect. 46. was of the age of sixteen years and above, did not repair to the Parish Church of N aforesaid; nor to any other Church Chappell or

J f f f f

usual

usual place of Common Prayer, and was there at the time of Common Prayer and Divine Service, at any time within one Month next following, the same first day of April Anno, &c. 11. & Scoc. 46. abovesaid, but hath forborne the same from the said first day of April Anno, &c. & Scoc. 46. abovesaid by the space of one Month then next following, against the forme of divers Statutes in this Case made and provided; and against the Peace of the said Lord the King, his Crown and dignity, upon which said Indictment, so as aforesaid found, at the same Assizes and generall Gaole delivery before the same Justices then and there, to wit at the Castle of W aforesaid, upon Monday the eighth day of August Anno Arg &c. 12 & Scoc. 47. abovesaid, as aforesaid held, publick Proclamation was made, that the same K W should render her body at the next Assizes, and generall Gaole delivery of the Gaole of the said Lord the King, for the body of the County of S aforesaid to be held, to answer the said Lord the King of the premises, whereupon as is premised, she stood indicted, according to the forme of the Statute in this Case made and provided; At which said next Assizes and generall Gaole delivery of the said Lord the King for the body of the County of S aforesaid at the Castle of W aforesaid in the County aforesaid, upon Monday the fifth day of March Anno, &c. 12. & Scoc. 47. before HH Knight and Baron, &c. And TL Knight Chief Baron, &c. then Justices assigned as before, &c. the same K W did not render her body, according to the Proclamation as aforesaid made; nor made her appearance of Record, whereupon the same K W of the premises whereof as aforesaid, she stood charged, was lawfully convicted, and yet is convicted, according to the forme of the Statute in this Case made and provided; And the same J W and K his wife further say, that they in the same Easter Terme, next after the same Conviction of the same K have not paid nor either of them, hath paid into the same Exchequer of the said Lord the King now, according to the rate of twenty pound, for every Month contained in the same Indictment. whereupon the same Conviction was had, neither paid nor either of them paid into the same Exchequer, after the same conviction so much as then remained unpaid, according to the rate of twenty pound for every Month after such conviction, but made default therein, which said Conviction afterwards, to wit in Michaelmas Terme then next following after the conviction aforesaid, by the same HH Knight and Baronet, and TL Knight Justices of the said Lord the King at the Assizes, and generall Gaole delivery aforesaid, before whom the said Record of conviction remained into the Court of the said Lord the King, of his Exchequer at Westminster aforesaid being extracted was certified, and so there remaineth according to the forme of the Statute therein provided; And which said conviction of the said K W in forme aforesaid, made had and Recorded, yet in his full strength and effect remaineth; And this the same J and K are ready to verifie with this also that the same J W and K will verifie that the the same K W in the Information aforesaid named, And the same K W in the Indictment aforesaid named are one and the same person, and not other nor divers, whereupon the same J and K pray judgement, if the same K who aforesaid, &c. followeth the Information aforesaid, for the said two hundred and twenty pound in the Information aforesaid specified, or any parcell thereof against the same J and K ought to prosecute &c. And HY Knight, Attorney Generall of the Lord the King now, who for the same Lord the King saith, that the said Lord the King now and the same R P who aforesaid, &c. by any thing by the same J W and K above in pleading alledged, from having the Information aforesaid against the said J and K ought not to be barred, because he saith that the same Plea by the same J and K in forme aforesaid pleaded, and the matter in the same contained, are insufficient in Law to bar the same Lord the King, and the same R who, from having their Information against the

the same I and K whereupon for defect of sufficient answer in this behalf the same Attorney of the said Lord the King pray judgment, and that the same I W and K. of the premises may be convicted, &c.

The defendants joyne in demurrer and pray judgment that they of the premises aforesaid may be dismissed, &c. And because the Court &c. of giving their judgment, &c. are not advised, &c. day is given alwell to the same H Y who followeth, &c. as to the same I and K before the Lord the King in O.R. Hill. wheresoever, &c. de Iudicio audiende, &c.

T 26 H 8 Rot. 286. Warr. S against Y Debt upon the Statute of R 3 for Seising of goods before the offender was convicted of felony.

T 27 H 8 Rot. 522. B against L Debt upon the Statute of 24 H 8 against a Butcher for selling of Beefe without weighing.

H 2 Jac. Rot. 3146 Information against a Vintner for selling of Flesh upon Fish dayes.

M 8 Jac. Rot. 325. Information against Bakers for baking of house bread.

T 28 H 8 Rot. 545. Debt upon the Statute for playing at unlawfull games.

T 28 H 8 Rot. 546 or 552. London H against M. Debt upon the Statute for apparell.

T 10 Jac. Rot. 3512. Issue upon an Information upon Statute of Laborers.

M 8 Jac. Rot. 325. Information against Carriers and Tanners.

P 1 Jac. Rot. 808 M 2 Ja. Rot. 1819. Informations upon the Statute of Champerty.

H 1 Ja. Rot. 1917 T 2 Jac. Rot. 1820 or 2820. Information upon the Statute for maintenance.

P 2 Ja. Rot. 711. Information upon the Statute for publishing of false deeds.

T 2 Ja. Rot. 3384. Information upon the Statute of forcible entries.

T 12 Carli An Information against an Alien for using an art in England not being made a denizen.

E 1651. An Information in the Capitall office against a parish for burying a man unknown killed with a Bull, before the Coroner had viewed his body.

INDEMPNITY.

Indempnity of name brought upon a judgment in Replevin.

Se H 17. Jac. 31. 35. *Brownlow* between W and S the Record of the Replevin whereupon this Writ de Indempnitate nominis is founded.

Se P 22. E. 4. Rot. 405. *Indempnitate nominis* brought by R at the suit of the King in a Plea of Debt upon an utlary, and confession by the Attorney generall which Record is printed in the new book of Entries Title *Indempnitate nominis* 2 fo. 407.

H 1 H 5 Rot. 112. Sci. fac. awarded, Rot. 117. a Writ awarded to the Sheriff of York, where the utlary was Rot. 307. Rot. 310.

P 36 H 6 Rot. 411. the like, and judgment after verdict for the Plaintiff with a promise that the right person be taken M 20. H 7. Rot. 133. the like, M 3. H 4. Rot. 114. Mich. 10. H b. Rot. 114. 21 H 7 fol. 39. *Kelway* 1 H 5. fo. 5.

T 19 Jac. Rot. 1832, Elsewhere as it appeareth in Michaelmas term Anno R. nunc. 18 Rot. 29 5 it is thus contained, The Lord the King hath sent to his Justices of the Common Bench his Writ closed in these words James, &c. to his Justices of the Common Bench greeting, on the behalf of R S of T in the County of York the younger it is shewed unto us that whereas M W lately in our Court before our Justices at Westminster by our Writ of second deliberance, delibered, had impleaded R S of T aforesaid the Elder by the name of R S onely for a certain share of the same M. by the same R S the Elder taken and unjustly detained as was said in such manner it was proceeded in the same Plea, that by you our Justices aforesaid, of our said Court of Common Bench, it is considered that the said M W should recover against the same R S the defendant in the same Plea 16 l. for his damages which the same M sustained at we. l by occasion of the taking and unjust detaining of the said share as for his costs and charges by him about his Suit in this behalf laid out as is said, and although the same R S of T aforesaid the younger is not the same person which so by the name of R S onely was impleaded notwithstanding the same R S of T aforesaid the younger, for the indemnity of his name and Surname, which by occasion of the judgment aforesaid and Proces thereupon prosecuted, is very much disquieted, to the no little damage of the said R S the younger and manifest depression of his estate, whereupon he hath supplicated us to grant him remedy therein, and because we will not that the same R S be injured in this behalf, we command you that viewing the proceedings in our said Court before our Justices of the same Court made, it by inquisition in this behalf, taken or any other lawful means it may appear, the same R S the younger not to be the same person which at the Suit of the said M which by the name of R S onely was impleaded then for the indemnity of the said R S the younger you cause to be done as of right and according to the law and custome of our Realm of England ought to be done, witness our self at Westminster the 28 day of November An. &c. 18 and of Scotland 54. This Writ was allowed by Warburton, And hereupon came here into the Court the same R S of T aforesaid the younger in his proper person, and saith, that he is not the same person which so by the name of R S onely was impleaded, but that the same R S late of T in the County aforesaid the Elder now deceased, was the same person, which so by the name of R S onely was impleaded and that the same R S of T aforesaid the younger, and the same R S of T aforesaid the Elder now deceased were two divers persons, and the same R S the younger, for the indemnity of his name and surname aforesaid by occasion of the judgment aforesaid and the Proces, thereupon prosecuted is very much disquieted, and this he is ready to verify whereupon he prayeth judgment and that he, of the judgment aforesaid and the Proces thereupon prosecuted, may be discharged, &c. And because it seemeth to the Justices here that it is expedient and necessary that the same M be premonished, before it be further proceeded to discharge the same R S the younger from the same judgment, it is commanded to the Sheriff of York that he make known to the said M that he should be here in O. d. Hill. to shew if any thing, &c. wherefore the same R S the younger ought not to be discharged from the said judgment, at which day here came the said R S the younger by I W his Attorney, and the Sheriff did nothing therein nor sent the Writ, therefore as before it is commanded the same Sheriff that he should make known to the same M that he should be here 15 Pal. as to shew in form aforesaid, &c. M. which day here came the said R S the younger

younger by his Attorney aforesaid; And the Sheriff now returneth, that he hath nothing, &c. now is found, &c. Wherefore as before it is commanded the said Sheriff, that he make known to the said M that he should be here at this day, to wit in the morning of the holy Trinity, to shew in some aforesaid &c. At which day here came also well the same R S the younger by his Attorney aforesaid, as the said M by H J his Attorney; And the Sheriff now returneth, that he hath nothing, &c. now is to be found, &c. And hereupon the same R S the younger as before saith, that he is not the same person, who so by the name of R S onely was impleaded, but that the same R S late of T aforesaid, in the County aforesaid the elder now deceased, was the same person, who by the name of R S onely was impleaded; And that the same R S of T aforesaid the younger; And the same R S of T aforesaid, the elder now deceased were two divers persons; And the same R S the younger, for the Indempnity of his name and surname aforesaid, by reason of the judgement aforesaid, and the Process thereupon prosecuted is much disquieted; And this he is ready to verify, whereupon as before he prayeth judgement. And that he of the judgement aforesaid; And the Process thereupon prosecuted may be discharged, &c.

And the same M saith, that he by any thing by the said R S the younger before alleadged, from his execution of his damages aforesaid, against the same R S as is premised abindged ought not to be regarded, because he saith that the said R S the younger is the same person, who so by the name of R S onely was impleaded, and not the said R S deceased; And this he prayeth may be inquired of by the Country; And the same R S the younger likewise: Wherefore the Sheriff is commanded that he cause to come here

Scirefac. awarded of the body of the County.

tres Trin. 12. &c.

Ggggg

Intrusion

INTRUSION.

Intrusion the marriage not being satisfied
T. 4. fac. Rot. 1965.
See Coke 6. fol. 70. such Case adjudged for the Plaintiff.
See Palmer Case Coke 5. fol. 127. a. greeth.

E 3 Eliz. Rot. 928. ff. W A son and heir of T A was summoned to answer R C and M his wife of a Plea, that whereas the marriage of the same W doth belong to the same R and M for that the same T holds his Land of them by Knights service; And the same R and M to the same W whilst he was within age and in their custody, oftentimes offered a competent marriage without disparagement, according to the forme of the Statute of the Common Councell of the Lady Eliz. of the kingdom of England, the same W refusing that marriage; the same R and M not being satisfied for the same marriage; himself into their Lands and Tenements intruded; and to satisfy the same R and M for the same marriage gainesayed, to the great damage of the same R and M and against the forme of the Statute aforesaid, &c. And whereupon the same R and M by W D their Attorney say, that whereas the marriage of the same VV doth belong to the same R and M for that the same T the Father of the said VV whose heir he is, his Land to wit the moiety of one Mes. and one Dregang of land called B with the appurtenances in S in the County aforesaid held of the same R and M as of their Mannour of S in the County aforesaid by Knights service, to wit by homage, fealty, and escuage of the Lord the King of forty Shillings, when it shall happen ten Shillings, and to more moze, &c. and to less less, &c. And by the Rent of 12 d. to the same R and M and to do suit to the Court of the same R and M of their Mannour aforesaid from three weeks to three weeks, at the same Mannour to be held, of which said services, the same R and M were seised by the hands of the same T as by the hands of his true Tenant, to wit by homage, fealty and suit of Court aforesaid, as in see and right, and of the Escuage and Rent aforesaid in his demesne as of fee; And the same T died in homage of the same R and M the same W son and heir of the son T being within the age of twenty one years, to wit of the age of fourteen years; And the same R and M to the same VV within the age of twenty one years, and of the age of fourteen years, and being in their custody often offered a competent marriage without disparagement, according to the forme of the Statute aforesaid at S aforesaid, the same VV refusing that marriage, the same R and M being not satisfied for the same marriage, intruded himself into the same Lands and Tenements, and to satisfy the same R and M for the same marriage gainesayed to the great damage, &c. And against the forme of the Statute aforesaid, whereupon they say, &c. And thereupon they bring Suit, &c.

And the same W A by J J his Attorney cometh and defendeth, &c. And say that the same R and M this action aforesaid against him ought not to have &c. because professing that the marriage of the same VV doth not belong to the same R and M nor that the same R and M were seised of the services aforesaid, by the hands of the said T A nor that the said T died in homage of the said R and M as the same R and M by their Declaration aforesaid abode supposed, For Plea saith that the same T A held not the said moiety with the appurtenances of the same R M by the service and Rent aforesaid; as the same R and M by their Declaration aforesaid abode supposed; And of this he put himself upon the Country, &c. And the same R and M likewise, Wherefore the Sherifff is commanded that he cause to come here, &c.

12, &c.

T. 4. fac. Rot. 946 R. against 17. M. 10. 71. Rot. 2651. C. against R. P. 8. fac. Rot. 2746.

TII Jac. Rot. 2412. Brownlow Lincoln. ff. H H Son and heir of G H was summoned to answer A D. Gentleman of a Plea wherefore, whereas the marriage of the same H doth belong to the same A by reason of a demise which p v to whom that marriage doth belong, for that the same H held his land of him by knights service, which he did to the same A and the same, the said H whilst he was within age and in his custody, refusing a competent marriage the said A not being satisfied for the said marriage himself into his lands and Tenements intruded, and to satisfy him for the said marriage gainsayed to the great damage of the said A And against the form of the said Statute, &c. and whereupon the same A by R Chis Attorney complaineth that whereas the said G the father of the said H whose heir the same H is, in his life time was seised of three roods of pasture with the appurtenances in K in the County aforesaid in his demesne as of fee, and the same 5 roods of pasture with the appurtenances had held of the same P as of his Manor of O Hill in K in H in the County aforesaid by knights service, to wit by Homage, fealty and Ceuage of the Lord the King 4 d. &c. And by the rent of 12 d. at the feast of St. Michael the Archangel yearly to be paid, and also by the service to do suit to the Court of the said P of his Manor aforesaid from three weeks in three weeks at the same Manor yearly to be held of which services the same P was seised by the lands of the same G as by the hands of the true Tenant thereof, to wit by Homage fealty and suite to the Court aforesaid as in fee and right and of the Ceuage and rent aforesaid as of fee; and the same G of the same 5 roods of pasture with the appurtenances in his demesne in form aforesaid being seised, the same G afterwards at K aforesaid died of such his estate therein seised in the name of the said P after whose death the Tenements aforesaid with the appurtenances descended to the same Humphrey as Son and Heir of the same G the same H Son and heir of the same G within the age of 21 years, to wit of the age of 10 years then being; whereupon the same P seised of the body of the same H into his possession, and was thereof possessed, and so being thereof possessed the same P afterward, to wit the first day of May Anno R. 7 at K aforesaid by his certain Writing which the same A with the Seal of the same P Sealed hereinto Court bringeth, whose date is the same day and year demised to the same A the custody and marriage of the same H without disparagement to H & to him and H is assigns untill the same H should come to his full age of 21 years, by virtue of which demise the same A was of the custody and marriage of the same H possessed, and being so thereof possessed, the same A the first day of August Anno 19 at K aforesaid the same H being within the age of 21 years, to wit of the age of 18 years and no more and in his custody a competent marriage to wit one I G the same I G then being of the age of 15 years, without disparagement according to the form of the Statute aforesaid oftentimes offered, the same H the said marriage refusing the said A not being satisfied for the said marriage, himself into his lands and Tenements intruded, and gainsayed to satisfy the same A for the said marriage, and yet gainsayeth to the great damage of the said A and against the form of the Statute aforesaid, whereupon he saith he is the worse, and hath damage to the value of two hundred pounds, and thereupon bringeth Suit, &c.

And the same H by R O his Attorney cometh &c. And saith that the said A actio non, because he saith that well and true it is that the same G was seised of the said 5 roods of pasture with the appurtenances in his demesne as of fee as the same A in his declaration aforesaid abode supposeth, but the same H further saith that the same G held the same 5 roods of pasture with the appurtenances of the same P of his said Manor of O in K in H aforesaid by fealty and rent of 12 d. in every year at the feast of St. Michael the Archangel yearly to be

GGGGG 2

paid,

*Intrusion mar-
itagia non sat-
tisfacta*, by the
grantee of the
wardship, af-
ter cessall up-
on tender
without dis-
paragement.

*M II. Jac.
Rot. 2576.
Brownlow be-
tween M and
H such a writ
brought by
the grantee of
the wardship,
the defendant
pleads that
the father
holder the
land of an o-
ther Lord in
Socage, and
conveyed the
descent to him
whereby he
entered and is
seised in fee
and traverseth
the tenure of
grantor of the
wardship in
the Court and
issue thereup-
on.*

The defend-
ant saith
that his father
held the land
of the said
Lord by feal-
ty and rent,
and traverseth
the tenure in
Knights ser-
vice.

Knights service traverseth.

paid, and the same G of the same 5 roods of pasture with the appurtenances in 1031 aforesaid being seized, the same G at K aforesaid died of such his estate therein seized, after whose death the same 5 roods of pasture with the appurtenances did descend to the same H as Son and heire of the same G whereby the same H into the said 5 roods of land with the appurtenances entered and was and yet is possessed of the same in his demesne as of fee without this that the same G held the same 5 roods of pasture with the appurtenances of the same of his said Manor of D aforesaid by Knights service, to wit by Homage fealty and Escuage of the Lord the King of 40 s. 8c., and the rent of 23 d. at the feast of St. Michael the Archangel yearly to be paid, and also to make Suit to the Court of the same P at his Manor aforesaid from three weeks in three weeks at the same Manor yearly to be held, as the same A by his declaration aforesaid above supposeth, and this he is ready to verifie whereupon he prayeth judgment if action &c.

And the same A saith that he ought not to be barred, because he saith that the same G held the same 5 roods of pasture with the appurtenances of the same P as of his said Manor of D aforesaid by Knights service, to wit by Homage fealty and Escuage of the Lord the King, &c. as before as the same A hath above alleadged, and this he prayeth may be inquired of by the Countrey, and the same H likewise. Therefore the Sheriff is commanded, &c. of the neighbourhood of K S of the Manor of D in H by whom, &c. and who neither, &c.

Intrusio, maytagio non satisfacto brought by an Executor of an Executrix,

H 4 Jac. Rot. 1851 Browker Devon. ff. I M Son and heire of H M was summoned to answer I S Gentleman, executor of the Testament of W. Scquire of a Plea wherefore whereas the marriage of the same I M belongeth to the said Executor by reason of the Execution of the Testament of the same Eliz. to whom the marriage aforesaid belonged, by reason of the Execution of the Testament of the said William, to whom the said marriage of late belonged, for that the said H held his land of the same W in Knights service, and the same W whilst he lived, and the said Executors after the death of the same W to the same I M who was within age a competent marriage without disparagement according to the form of the Statute of the Common Councell &c. oftentimes offered the same I M the said marriage refusing, the same W in his life time to the said Eliz. after the death of the same W. in her lifetime, to the I S Executor after the death of the same E being satisfied for the said marriage himself into his lands and Tenements intruded gaining to satisfy the same Executor for the same marriage, in delay of the Execution of the same Testament, and against the form of the Statute aforesaid, &c. whereupon the same I S the Executor by T B his Attorney saith that whereas the marriage of the same J M belongeth to the said Executor by reason of the Execution of the same Testament to whom that marriage of late belonged for that the same H the father of the said I M whose heire he is his land to wit 1 Mes 89 Acres of land 30 Acres of Meadow 60 Acres of Furze and Heath with the appurtenances in in P in the County aforesaid held of the same W as of his Manor of B with the appurtenances in the County aforesaid by Knights service, to wit by Homage fealty and Escuage of the Lady Eliz. late Queen of England 40 s. 8c. And by the rent of 12 d. every year at the feast of St. Michael the Archangel yearly to be paid, and also by the Service to make Suit to the Court, &c. of which said Services the same W was possessed by the hands of the same H as by the hands of the true Tenant thereof, to wit of Homage, fealty and Suit to the Court aforesaid as of fee and right and of the Escuage and rent aforesaid in his demesne as of fee which said H at P aforesaid died in Homage to the said W and the same W whilst he lived, and the same Executors after the death of the same W to

to wit, the same Eliz. Executrix of the Testament of the same W and the same J S Executor of the Testament of the same Eliz. after the death of the same W and Eliz. to the same J M within the age of 21 years, a competent marriage without disparagement according to the form of the Statute aforesaid at P aforesaid often offered, the same T M refusing that marriage, the same W in his life time or the same or to the same J S Executor after the death of the same Eliz. being not satisfied of the same Marriage himself into the lands and Tenements aforesaid intruded, and to satisfy the same Executor for the same marriage refused, and yet refuseth in delay of the Execution of the Testaments aforesaid, and against the form of the Statute aforesaid. Whereupon he saith he is wile, and hath damage to the value of 400 l. And thereof bringeth Suit, &c. And bringeth here into the Court also the Letters testamentary of the said W S by which it sufficiently appeareth to the Court here the same Eliz. to be Executrix of the same W and thereof to have the Administration &c. As the Letters testamentary of the same E by which it sufficiently appeareth to the Court, here the same J S to be the Executor of the testament aforesaid; And thereof to have the Administration, &c.

And the same J M by J G his Attorney cometh and defendeth the force and wrong when &c. And saith Action non, because he saith that one J M Brother of the same H M and Uncle of the said J M now the Defendant was seized of one Parcel fifteen acres of Land, five acres of Meadow, fifteen acres of pasture and five acres of wood with the appurtenances called H in V in the County aforesaid; And of one Parcel fifteen acres of Land, four acres of meadow, and ten acres of pasture with the appurtenances in B in V aforesaid in his demesne as of fee; And so being thereof seized the same J M the Brother of the same H the tenements aforesaid, with the appurtenances called H and B held of Late Earl of Hunt. as of his Mannour of L with the appurtenances in the County aforesaid by Knights service, to wit by Homage, Fealty, and Escuage of the said late Queen Elizabeth. When it shall happen two shillings, of which said Mannours of L with the appurtenances, the said late Earl was seized in his demesne as of fee; And of which said services the same Earl was seized of the same J M the Brother of the same H as by the hands of the true tenant, to wit of the homage and fealty aforesaid, as of fee and right and of the Escuage aforesaid in his demesne as of fee: And the same J M now the Defendant further saith that the same J M the Brother of the same H was seized of the Tenements in the Declaration aforesaid above specified in his demesne as of fee; And being so thereof seized, the Tenements aforesaid with the appurtenances held of the same V V as of his said Mannour of B with the appurtenances by Knights service, to wit by homage fealty, and escuage of the said Lady the Queen of forty shillings, &c. And the same J M the Brother of the same H as well of the said tenements, with the appurtenances called H and B as of the said lands and tenements with the appurtenances in the Declaration aforesaid above specified, so as aforesaid being seized the tenth day of August Anno Domini 1551. at V aforesaid made his last Will in writing; And by the same last Will gave bequeathed two parts of the tenements aforesaid, with the appurtenances called H & B into three parts to be divided, and two parts of the tenements, with the appurtenances in the Declaration aforesaid above specified into three parts to be divided to the same H M his younger Brother, Father of the same J M now the Defendant to have and to hold to the same H M and his heirs forever, and afterwards died there, as well in homage of the said late Earl as in the homage of the said W S of the tenements aforesaid, with the appurtenances called H and B and of the tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified, in forme aforesaid

Spec'ial Dam. for one tenure and Knights service, for the other that the Lord tendered to him a competent marriage which he accepted.

died, without heir of his body begotten. After whose death aswell the third part of the tenements aforesaid, with the appurtenances called H and B as of the third part, of the third part of the tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified, descended to one H M the elder Brother of the same J M the Uncle, as Brother and heir of the same J M the Uncle, whereby the same H M the elder into the same third part of the tenements aforesaid with the appurtenances called H and B and into the same third part of the tenements aforesaid with the appurtenances in the Declaration aforesaid above specified entered, and was thereof seized in his demesne as of fee; And the same H M the younger Brother, into the same two parts of the tenements aforesaid, with the appurtenances called H and B and into the same two parts of the tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified entered, and was thereof seized in his demesne, as of fee by virtue of the said Legacy; And the same J M now the Defendant further saith, that the same J M the Uncle, the day, whereon the same J M the Uncle died held the tenements aforesaid with the appurtenances called H and B of the same late Earl as of his said Mannour of L with the appurtenances by the same services thereof above specified, by the said ancient Feoffment, which the same J held the Tenements, aforesaid with the appurtenances in the Declaration aforesaid above specified of the same W as of his said Mannour of B, which the same H M the elder Brother, of the same third part of the tenements aforesaid, with the appurtenances called H and B and of the same third part of the tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified so as aforesaid, being seized at V aforesaid died of such his estate therein seized, after whose death the same third part, of the tenements aforesaid with the appurtenances called H and B and the same third part of the tenements aforesaid with the appurtenances in the Declaration aforesaid above specified, descended to one W M as son and heir of the said H M the elder Brother by which the same W M into the same third part of the tenements aforesaid, with the appurtenances called H and B and into the same third part of the tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified entered, and was thereof seized in his demesne as of fee; And the same W M being so thereof seized, and the same H M the younger Brother, of the same two parts of the tenements aforesaid with the appurtenances called H and B and of the same two parts of the tenements aforesaid with the appurtenances in the Declaration aforesaid above specified, in forme aforesaid being seized the same W M the tenth day of No. Ar. R. 16. of the same third part of the tenements aforesaid, with the appurtenances called H and B and of the same third part of the tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified insoffed the same H M the younger Brother, To have and to hold to the same H and M the younger Brother and his heirs for ever; By virtue of which Feoffment the same H M the younger Brother was seized of the said third part of the tenements aforesaid, with the appurtenances called H and B and of the same third part of the tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified in his demesne as of fee and so being as is premised thereof seized; And the said late Earl of the same Mannour of L with the appurtenances in forme aforesaid, being seized, the same late Earl afterwards, to wit the 20 day of January Anno R. 16. of the same Mannour of L insoffed J P then Esquire now Knight, Chief Justice of the said Lord the King now assigned to hold Pleas before the said Lord the King to have & to hold the same Mannour of L with the appurtenances by Knights service, to wit by homage, fealty & Ceuage of the said Lady the Queen of forty shillings, &c. of which said services the same J P was seized, by the hands of

Feoffment.

the same H M the Father of the same J M now the Defendant, as by the hands of the true tenant, to wit of the homage and fealty aforesaid, as of fee and right, and of the Escuage aforesaid in his demesne as of right; And the same J M the Father of the same J M now Defendant, afterwards at V. aforesaid died, as well in the homage of the said J P as in the homage of the said W S the same J M now the Defendant son and heir of the same H at the time of the death of the same J M the Father being within the age of twenty one years; After which said H M the Father of the same J M now Defendant's death, the same J P took and seized the body of the same J M now the Defendant into his hand and possession, and was aswell of the custody of the body of the same J M now the Defendant as of the whole tenements aforesaid, with the appurtenances called H and B during the minority of the same J M now Defendant possessed; And being so thereof possessed; the same J P married the same J M now the Defendant to one M G at V where, by the same J M the now Defendant into the lands and tenements aforesaid, with the appurtenances in the Declaration aforesaid above specified entered, and of his marriage to the same W S in his life time, or to the same Elizabeth Countess of the testament of the same W S after the death of the same W in the life time of the same E, or to the same J S after the death of the same W S and Elizabeth to satisfy hath gained, and to the same J S of his marriage to satisfy doth gain; And this he is ready to verifie, whereupon he prayeth, &c. If &c. And the same J S saith that he ought not to be barred, because he saith that well and true it is, that the said H M the Father of the said J M now the Defendant was seized of the whole tenements with the appurtenances in his demesne as of fee; As the same J M hath above alleged; but the same J S further saith, that the same H M the Father being seized of the whole tenements aforesaid; with the appurtenances called H and B in fee as aforesaid, the same tenements with the appurtenances held of the same J P as of his said Mannour of L with the appurtenances in free Socage by fealty, onely for all services without this, that the same H M the Father held the whole tenements aforesaid with the appurtenances called H and B of the same J P as of his said Mannour of L with the appurtenances by Knights service, to wit by homage fealty and Escuage of the said Lady the Queen of forty Willings, &c. As the same J M hath above alleged: And this he is ready to verifie, whereupon he prayeth judgement and his damages by occasion of the premises to him to be adjudged, &c.

Seizure of the body.

And the same J M the Son as before saith, that the same H M his Father held the whole tenements aforesaid with the appurtenances called H and B of the same J P as of his said Mannour of L with the appurtenances by Knights service, to wit by homage, fealty and Escuage of the said Lady the Queen of forty Willings, &c. As he hath above alleged; And of this he putteth himself upon the Country; And the same J S likewise; Wherefore the Sheriff is commanded that he cause to come here in 8. Par. of the neighbourhood of V and of the Mannour of L aforesaid 12. &c.

Issue that the Father held the Lands by Knights service, &c.

T 6. H 8. Rot. 511. H. 16. H. 6. Rot. 117. Suffex ff. A Jury came to Recognize, whether thirty one acres of land with the appurtenances, are free Cleemofinary belonging to the Church of A whereof J W Clerke is Vicar or lay fee; And now here at this day to wit, &c. came the same J W by R J his Attorney; And the same J P cast himself an Escoyn de malo veniendi; against the same J W of the same Plea; And had thereof day by his Escoyne here untill in Oct sancti Mich, as it appeareth amongst the Rolls of the Escoyns of the same Terme Roll; Wherefore let the Sheriff have the bodies of the Jurors, &c. the same day is given to the same W here, &c. At which day here came, &c. And hereupon the same J W saith that one J W of F Clerk late Parson of the same Church Predecessor of the same J

Recognizance.

now Parson was seized of the aforesaid Land; was seized of the said Land in his demesne as of fee in the right of his Church, as of free Eleemosinary belonging to the same Church in the time of Peace, in the time, &c. And prayeth thereof a Jury, &c.

And the same J P saith that the Jury aforesaid, of the Lands aforesaid with the appurtenances between him and the same J W ought not to be taken, because he saith that before the same W late Parson, had any thing in the same Lands with the appurtenances, one L of B late Parson of the same Church Predecessor of the same J W was thereof seized in his demesne as of fee and of such his estate thereof died seized, without heir of his body begotten, after whose death the same W late Parson into the land aforesaid with the appurtenances entered claiming the same as free Eleemosinary belonging to the same Church and died after whose death the same J VV as Cosen and heir of the same L to wit, &c. into the same land with the appurtenances entered and was thereof seized in his demesne as of fee; And so the same J P saith that the same land is the lay fee of the same J P and not free Eleemosinary of the same J W now Parson belonging to his Church aforesaid; As the same J now Parson by his writ and Declaration aforesaid above supposeth; And hereupon he putteth himself upon the same Jury; And the same J V likewise; Wherefore let a Jury thereof between them be taken. &c. but let it be respited here untill, &c. for want of Jurors &c. because none came; Wherefore let the Sheriff hide the bodies, &c. And in the meane time to give view to them of the same land, if, &c. The same day is given to the parties aforesaid here, &c.

MESNE.

H II H. 8. Rot: 613. Devon. ff. I. C. Esquire and E S in mercy for moze default, &c. the same I and E were summoned to answer I F. of a Plea that they acquit the same I F of the service which K the Countess of Devon. requireth of him, for the free tenement, which the same I C and E hold in B whereof the same I & E who are Mesne, betwixen them out to acquit him, &c. And whereupon the same I F in his proper person saith, that he holdeth of the same I C and E as of their Mannour of S the Mannour of B with the appurtenances by fealty and Suit, to the Court of the same I C and E at S aforesaid to be held twice by the year, to wit at the Court lawfully to be held there next after the Feast of Easter; And at the Court lawfully to be held there next after the Feast of Saint Michael the Archangel, for all services, of which services the same I C and E were seized by the hands of the said J F as by the hands of the true tenant, for which services the same J C and E ought to acquit the same J F against whomsoever; The same Countess requireth of the same J C and E homage and Suit of Court, unto the Court of the same Countess, at P in the County aforesaid, from three weeks to three weeks yearly to be held, And this to do let the same J F be distrained by the Cattle of his Plough from day to day, so that he cannot till his Land for defect of acquitting of the same I C and E; And the same J and E although often requested, to acquit the same J F have hitherto gainsayed, and yet gainsay, whereupon he saith he is the worse, and hath damage to the value of forty pound; And thereof bringeth Suite, &c.

Count in a
Writ of
Mesne.

Iiiii

Non

Non compos mentis.

Non compos mentis
brought by
the heir.
H. 32. Eliz.
Rot. 18 judge-
ment in a
writ of Entry
upon *Non compos mentis* F.
against P.

M 11 Jac. Rot. 1069 in the third part of the time. Brownlow Suffer
H. I G and He ter his wife by W F their Attozney demanding against
R P one 300. and thirty acres of land with the appurtenances in B as their
right and inheritance; And into which the same R hath no entry, unless by I
R the father of the same H whose heir she is, who demised the same to him,
whilst the same I was not Compos mentis; And whereupon they say that the
same I the father of the same H whose heir she is, was seized of the tenements
aforesaid with the appurtenances in his demesne, as of fee and right in the
time of Peace, in the time of the Lord the King now taking thereof the pro-
fits to the value, &c. And into which, &c. And thereof byingeth Suit, &c.

Non suit upon
the Jury Roll.

M 18 Jac. Rot. 2843. Brownlow Suff. H. Sir Daniel Deligne Plaintiff
against J P in a Replevin issue upon the abowry, for the Arrears of
a Rent charge, issuing out of Lands in the County of Suff. and Norff. and
avesc. awarded to both the Counties; And the hab. Corp. Jar. returnable
tres M. 19 at War. At which day the Jurors out of both Counties ap-
pear; And the Plaintiff cometh not. And it was moved for the Plaintiff
that the cause might be discontinued, VVinehe Justice and Brownlow the
Prothonotary say that the cause cannot be discontinued, because the cause
is continued, untill such a day upon the Jury Roll, which Roll of the Jury
was brought into the Court and was continued, and the Plaintiff was cal-
led three times by the Cryers, and because he came not, he was non-suited by
that Roll. And the non-suit recozded, And the Jurors were not called nor
lost issues, &c.

The like between I and In 17 Car. R. ff. in Ejectment in Morgans Case,
for that the Plaintiff brought not the hab. as corp. into the Court, And
the Defendants prayed non-Suit upon the Fine Roll which was in Court,
the Court awarded the non-Suit by the same President above, in Hill. 3.
C. D. And upon the Book of Dier 101. 214.

The like in Pas. 18 Ca. Gullston upon issue entred, between C and P in an
Ejectment.

Parco fracto.

T 8 Jac. Rot. 2601. 02 2661.

T 8 Jac. Rot. 457. Brownlow H. M. A late of, &c. was Attached to answer A T Gentleman of a Plea, wherefore whereas in his damage at W M his servant, he causes certain Cattle to be taken, and those Cattle according to the Law, and custome of the said Lord the King now of England impounded, the same M with force and arms broke the same Pound, and the same Cattle took and carried away; And other Enormities to him offered, &c. And whereupon the same A by I T h's Attorney complaineth, that he in his damage to wit in three acres of land sowed, with Wheat at W by W M his servant certain Cattle, to wit three Hogs caused to be taken, and those Cattle according to the Law and Custome of England, &c. there impounded, the same M the seventeenth day of July Anno R. 7. the same Pound with force and arms, &c. broke; And the Cattle aforesaid took and carried away to the great damage, &c. And against the Peace, &c. whereupon he saith, he is the worse, &c. And thereof bringeth Suit, &c. not guilty.

Court in Parco fracto Plain: if the owner of the land upon a distress taken, damage Fesant

Plas, 36 Eliz. Rot. 1216. N. in Parco fracto for an Annuity of Rent charge in Tayle.

T 19 Jac. Rot. 3146. Brownlow Rot. 11. I W and A his wife received R W and declares in Parco fracto, the day of Trespass by the Feme only upon distress for damage feasant 20 Jan. 17 Jac. And the same I and A when, &c. And as to come with force and arms, and also the taking and carrying away of the same ten Hogs, and three Pigs of the Cattle aforesaid, in the Declaration aforesaid above specified say that the same I is in no wise thereof guilty; As the same R above against them complaineth; And of this he putteth himself upon the Country; And the same R likewise. And as to the breaking of the Pound aforesaid and the taking and carrying away of the said Pigs, residue of the said Cattle, the same I and A for the same say that they are not, because they say that the same Pound wherein &c. P is & the aforesaid time wherein was the common Pound of B aforesaid; And that after the same time, wherein is supposed the breaking of the same Pound & the taking & carrying away of the same two Pigs, of the same five Hogs and Pigs residue, to wit the last day of No Anno R. &c. 18 at B the same J paid to the said R Sir pence of lawfull mony of England in full satisfaction of all damages to the said R in the tythe Barne-yard with the Cattle of the same I before that time done, to wit the same R of the said J then and there received; And this they are ready to verifie, whereupon they pray judgement, if the same R his action, &c.

Parco fracto.

And the same R as to the said Plea of the same I and A for the same A, as to the breaking of the Pound aforesaid, and the taking and carrying away of the said two Pigs, of the said five Hogs and Pigs residue above in Bar pleaded saith, that he by any thing in the same Plea alleged, from having his Action aforesaid ought not to be barred because he saith that the same A the day and year abovesaid, in the Declaration aforesaid above specified, the Pound aforesaid with force and arms, &c. broke. And the same two Pigs of the said five Pigs of the same J took and carried away against the Peace of the said Lord the King now; As the same R above against her complaineth, without this that the said J paid to the same R Sir pence in full satisfaction of all damages to the said R in the tythe Barne-yard, with the Cattle of the same J before that time done; As the same I and A for the same A have above alleged; And this he is ready to verifie whereupon he prayeth judgement, and his damages by reason of the Trespass aforesaid to him to be adjudged, &c. And thus joyned upon the Traders

Not guilty for part and tender of amends for the residue P. 10. H. 4. Rot. 234. Parco fracto and taking therein divers wyed Cattle, the meat not being paid.

Patent for H.
Prince of
Wales &c.

Pasch. 21. H.
7. rot. 38.
Mordant Dev.
St. Arthur P. of
Wales, Duke of
Cornwal, and
E. of Chester.

P 9 J c hi Rot. 51. amongst the Pleas of land with B ownlow. Be it remembred that A N Serjeant at Law of the Prince of Wales Duke of Cornwall and Earl of Chester the first day of May, that same Terme delivered here into the Court, the Letters Patents of the said Lord the King now made, to the same Prince, and prayeth those Letters here in Court to be enrolled; and they are inrolled in these words, James by the Grace of God of England, Scotland, France, and Ireland, King Defendor of the Faith, &c. To all our Archbishops, Dukes, Marqueses, Earls, Bishops, Barons, Justices and all other our faithfull greeting; Although the great and everlasting Maker of the world, who made the Heaven and the Earth, by his infinite power, and doth preserve and behold the same, as his work with immense goodness and bounty; so man by the example of God, to whose image he is formed, his of-spring, as his perfect exemplar and exprels effiges, doth imbrace with a certain immense love and indugency; and whether this remain from the common instinct of nature of all living, whereby themselves and theirs they must love, or by the force of reason, that the image of the Parents is altogether engraven in the Childrens minds, or of a certain sympathy of body and mutuall consent, that the issue begotten is part of the begetter, and derived from him, or from the innate study which all seem to have, to continue to perpetuity, &c. to hold to him and his heirs Kings of England for ever: Wherefore we will and firmly command for us and our heirs, that the said Henry our son have the name, stile, title, State, dignity, and honour of the principality of Wales, and Earldome of Chester aforesaid to him and his heirs Kings of England, as is aforesaid by these witnesses our beloved Son Charl. Duke of York, and our faithfull and beloved Councillour. Tho. L. Ellesmeare high Chancellor of England, and the Reverend Father in God Toby Archbishop of York Primate and Metropolitan of England, and many others in our full Parliament at Westminster convened, and present, dated by our hand at Westminster the fourth day of June in the year of our reign of England, France, and Ireland the eighth, and over Scotland the 43.

By the King.

Non suit upon
the issue Roll.
Dier 214 b. p.
46. accord.

H 3 Car. Rot. 1849. Brownlow: Goldwell Plaintiff against Geo. S. in a Quare impedit O & Pur. At which day the Jury between the same C and the said Geo of the same Plea was respited here untill this day to wit from Easter day in fifteen days then next following; And now here at this day came the same C by his attornee aforesaid, wherupon the same C being solemnly called came not, nor hath prosecuted his said writ: Therefore it is considered that the said C And his Pledges to prosecute be in mercy Let the names of the Pledges be inquired of, &c. And that the same C go thereof without day, &c.

Partition.

PARTITION.

H43 Eliz. Rot. 1519 Brownlow Essex ff. HP and Elizabeth his wife I K and A his wife and CS were summoned to answer I E of a Plea that whereas the same I E for his purport to the same I E of 1 Mes. 1 Garden Orchard 50 Acres of land 6 Acres of meadow 20 Acres of pasture and 4 Acres of wood, with the appurtenances in A and S which were of TH and M his wife in the right of the same M Cozen of the same I E (one of whose heirs he is) hapning and the same HP and Eliz. in the right of the same Eliz. one of the daughters and another of the heirs of the same M for the purport of the same Eliz. to the same Eliz. of the Tenements aforesaid with the appurtenances hapning, and the same I K and A in the right of the same A another of the daughters and heirs of the same M for the purport of the same A the same A out of the Tenements aforesaid with the appurtenances hapning, and the same C by vertue of a certain fine to him in the Court of the said Lady the Queen befoze the Justices of the said late Queen at Westminster by RS and Eliz. his wife another of the daughters and heirs of the same M for the purport of the same Eliz. to her of the Tenements aforesaid with the appurtenances hapning lewyed, together and without division held the Tenement aforesaid with the appurtenances the same HP and Eliz. his wife I K and A his wife and C to make partition thereof between them according to the law and custome of the Realm of the said Lady the Queen of England gapning, and do not permit the same to be done very unjustly and whereupon the same J E by LH his attorney saith that whereas the same TH and M. his wife were seised of the Tenements aforesaid with the appurtenances in their demesne as of fee in the right of the same M and being so thereof seised the same T at A aforesaid died and the same M survived him and kept her self within in the Tenements aforesaid with the appurtenances, and was thereof solely seised in her demesne as of fee, and being thereof seised the same M at A aforesaid died of such her estate thereof seised, after whose death the Tenements aforesaid with the appurtenances descended to the same I. E. as Cozen and Heire of the same M. to wit, Son and Heire of the same M. and the same Eliz. then wife of the same H. P. A, then the wife of the same I. K. and E. then wife of the same R. S. as daughters and co-heires of the said M. together with the same I. E. whereby the same I. E. H. P. E. his wife J. K. A. his wife R. S. and E. his wife into the Tenements aforesaid with the appurtenances entred and were thereof seised in their demesne, to wit, the same I. E. in his own right, and the same H. and E. likewise in the right of the same E. I. K. and A. in the right of the same A. and R. S. and Eliz. his wife in the right of the same E. and the same J. E. H. P. and E. his wife J. K. and A. his wife, R. S. and E. his wife being so thereof seised lewyed the same fine in the Court of the said Lady the Queen in the Common Bench here, to wit, at Westminster in the County of Middlesex in Cro. Trin. Anno &c. 42. befoze E. A. T. W. J. G. and G K. then Justices of the said Lady the Queen of the same bench, and other faithfull people of the same Lady the Queen, then there present between the same C. S. Plaintiff, and the same R. S. and E. his wife defendants of the same purport of the same E. the same E. out of the Tenements aforesaid, with the appurtenances happening amongst other things by the names of the 4. part of one Mes. 60. Acres of Land, 5. Acres of Meadow, 20. Acres of Pasture, and 3. Acres of Wood, with the appurtenances in A. and L. whereof a plea of Covenant was summoned thereof between them in the same Court, to wit, that the same R. and E. acknowledged

Partition between Partners and their Heirs and Assigns at the common Law.

Fyne lewyed.

Recital of the Fine.

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the same fourth part with the appurtenances to be the right of the same C as those which the same C had of the same R and E. his wife, which they remitted and quit claimed of them and their heirs, to the same C. and his heirs forever; And besides the same R. and E. his wife granted for themselves, and the heirs of the same E. that they will warrant to the same C. and his heirs the same 4 part with the appurtenances against the same R. and E. his wife, and the heirs of the same E. forever which said fine in some aforesaid levied, was to the use of the same C. and his heirs forever by pretext of which said fine the same C. was and yet is seized of the same purport of the Tenements aforesaid with the appurtenances to the same R. and E. his wife in the right of the same E. happening in their Demeasne as of Fee, and so the same I. E. of his purport aforesaid to him out of the Tenements aforesaid with the appurtenances which were of the same T. H. and M. his wife in the right of the same M. Coten of the same I. E. whose heir he is, happening, and the same H. P. and E. his wife in the right of the same E. one of the daughters, and another of the heirs of the same M. of the purport of the same E. to the same E. out of the Tenements aforesaid, with the appurtenances happening: and the same I. K. and A. in the right of the same A. another of the daughters and heirs of the said M. for the purport of the said A. to the same A. out of the Tenements aforesaid, with the appurtenances happening: and the same C. by virtue of the said fine to him in the said Court of the said Lady the Queen before the Justices of the said Lady the Queen at Westminster aforesaid, between the said R. S. and E. his wife another of the daughters and heirs of the same M. of her purport to the same E. out of the Tenements aforesaid with the appurtenances late happening levied together & without division hold the Tenements aforesaid with the appurtenances, whereof unto the same I. E. belongeth to have one fourth part of the Tenements aforesaid, with the appurtenances into four equal parts to be divided. And to the same H. P. and E. iz. his wife, belongeth to have one other fourth part of the Tenements aforesaid, with the appurtenances And to the same I. K. and A. his wife, belongeth to have one other fourth part of the Tenements aforesaid with the appurtenances And to the same belongeth to have one other fourth part of the Tenements aforesaid with the appurtenances residue. so that the same I. E. of his purport aforesaid to him, out of the Tenements aforesaid, with the appurtenances hapning. And the same H. and E. his wife, of the purport of the said H. and E. in the right of the same . of the Tenements aforesaid with the appurtenances hapning And the same I. K. and A. his wife of the purport. &c. And the same C. of his said purport to him out of the Tenements aforesaid, with the appurtenances hapning severally may appropriate them selves the same H. P. and E. his wife. I. K. and A. his wife and C. partition thereof between them, according to the law and custom between them gained And the same to be done do unjustly hinder, whereupon he saith, he is the worse; and with damage to the value of 100 l. and thereof bringeth suit &c.

T 13. Jacobi, Rot 632, Brown v De. bif. R. P. Csq. and his wife. C. were summoned to answer T. H. Csq. and M. his wife of a plea; wherefore whereas the same T. and M. and R. and C. together and undivided, hold the manors of C. and W. with the appurtenances, and thirty messuages, one mill, one Dove-house, thirty gardens, four hundred acres of land four hundred acres of meadow, a hundred and fifty acres of pasture, three hundred acres of wood three hundred acres of furze and heath, and twenty shillings rent, with the appurtenances of the inheritance which was of H. I. Csq. father of the same M. and C. whose heirs they are in C. W. W. and M. the same R. and C. to make partition thereof between them, according to the Law and custom of the Realm of England; and unjustly will not suffer the same to be done. And whereupon the same T. and M. by H. V. their Attorney say,

Partition between partners by the Common Law.

P. 9. Jac. Rot. 431. Com. in partition between heirs in *Gave hende*. T. 13. Jac. Rot. 240.

that whereas the same T & M & the same R & G together & undividedly hold the Mannors, Tenements and Rent aforesaid, with the appurtenances; and that unto the said T and M in the right of the said M belongeth one moiety of the Tenements aforesaid, with the appurtenances; and unto the same R, and G in the right of the same G belongeth the other moiety of the residue thereof to them in severalty, so that the same T and M the moiety to the same M out of the Mannors, Tenements and Rent aforesaid, with the appurtenances hapning; and the same R and G, of the other moiety thereof to the same G, thereof hapning severally may appropriate themselves, the same R and G partition thereof between them to be made, according to the Law and custom of the Realm of England, gainsay, and unjustly will not suffer the same to be done, whereupon they say they are the worse, and have damage to the value of 100 l. and thereof they bring suit, &c. And the same R, and G by G. L. their Attorney, come and defend the force and wrong, when &c. and say, that they cannot gainsay the Action of the same T and M aforesaid, nor that partition between the same R and G and the same T and M of the Mannors, Tenements and Rent aforesaid, with the appurtenances, ought to be made, &c. and do well agree, that partition thereof between the said R and G and the same T and M be made, &c. therefore it is considered, that partition between them of the Mannors, Tenements and Rents aforesaid, with the appurtenances be made, &c. and nothing of the mercy of the said R and M because they came the first day by summons, &c. and the Sheriff is commanded, that taking along with him twelve free and lawful men of the Neighborhood aforesaid, by whom the truth of the matter may be the better known, in his proper person he come to the Mannors, Tenements and Rent aforesaid, with the appurtenances, and there by their oath, in the presence of the parties aforesaid, by the same Sheriff, to be forewarned, if they will be present, the same Mannors, Tenements and Rent aforesaid, with the appurtenances (respect being had to the true value of the same) into two equal parts, to divide, and one moiety of the Mannors, Tenements and Rent aforesaid, to the same T and M and the other moiety of the same Mannors, Tenements and Rent aforesaid to the same R and G to hold to them in severalty, he cause to be delivered and assigned. So that neither the same T and M nor the same R and G may have more of the inheritance aforesaid than to them belongeth to have. And that the same T and M of the purport to the same M and the same R and G of the purport to the same G of the inheritance aforesaid hapning, may severally appropriate themselves thereof: and the same partition by the same Sheriff so distinctly and openly made, have here in Cro. an. p. under the Seal, &c. and the Seals, &c. the same day is given to the parties abovesaid here, &c.

Confession.

Trin. 29. Eliz. Rot. 2639. partition in several Counties.

T 17 Ja. Rot. 1986. Brownlow. Otherwise as it appeareth in Hil. Term. an. R. 16. Rot. 1719. it is thus contained, Staff. H. R. Hand I were summoned to answer R. Earl of E. ED Knight and Baronet, and his wife, of a plea, that whereas the same R Earl of E, E and K and R and J, together and undivided hold two meadow gardens, three acres of land, and four acres of pasture in Newcastle under line, the same R and I to make partition thereof between them, according to the form of the Statute thereof provided, gainsay, and unjustly will not suffer the same not to be done, against the form of the Statute aforesaid, &c. And whereupon the same R E and K, by R B their Attorney say, that whereas the same Earl E and K, and the same R and J together and without division, hold the Tenements aforesaid, with the appurtenances, whereof to the same Earl E and K, to wit, to the same E and K, for the term of their lives, and the longer liber of them, and to the same Earl and his heirs after the decease of the same E and K ever belong to have the one

Partition brought between Joyn-tenant, where the inheritance is to three, &c. to others per lives;

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moiety

moety of the Tenements aforesaid, with the appurtenances, and to the same R and J both belong to have the other moety of the Tenements aforesaid with the appurtenances residue, to hold to them in severality, so that the same E. K. and the Earl, of their said moety to them thereof in form aforesaid having. And the same R J of their their residue of the said moety to the same R and J of the Tenements aforesaid, with the appurtenances, may severally appropriate themselves the same R and J partition thereof between them to be made, according to the form of the Statute in this case provided gainsay and unjustly do not suffer the same to be done against the form of the Statute aforesaid, whereupon they say they are the worse, and have damage to the value of 100 l. and thereupon they bring Suit, &c.

Defendants
come by Teve-
rall Attornies.
One Defen-
dant praises
Imparlance,

Another
grants a parti-
tion.

Judgement
what a parti-
on with arrest,
execution un-
till the plea be
determined.

The like M. 2.
Ja. Rot. 1925.

And the same R by J R his Attorneys cometh, and defendeth the force and wrong when &c. and the same Rich. prayeth license thereof to imparle here until fifteen Pas. and hath it, &c. the same day is given to the same Carl E and R here, &c. and the same J saith, that he cannot gainsay, but that partition between the same Carl E and K, of the Tenements aforesaid, with the appurtenances in form aforesaid, ought to be made, &c. and doth well agree that partition of the Tenements aforesaid, with the appurtenances, between the same J and the said Carl E and K be made &c. therefore it is considered that partition between the same J thereof, and the same Carl of E and K, be made &c. and the same J in mercy, &c. and as to the partition of the Tenements aforesaid, with the appurtenances between the same J and the said Carl E and K, in form aforesaid to be made. Let execution thereof cease. until the same plea between the same Carl E & K & the same R be determined, &c. And now here at this day, to wit, at the xv. Pas. here came aswell the said Carl E. and K. as the said Rich., by their Attorneys aforesaid & hereupon the same R further prayeth license thereof to impart here until the 10 Trin. and hath it, &c. the same day is given to the said Carl E. and K here, &c. And now here this day, to wit, the same morrow of the Holy Trinity came as well the same Carl E and K as the same R by their Attorneys aforesaid. And hereupon the same Carl E and K. pray that the same Rich. may answer to their Declaration aforesaid, &c.

And the same R. as befoze, defendeth the force and injury, when &c. and saith, that he and the same John do not hold noz at the day of the purchasing of the Original Writ of the same Carl E and K, to wit, the 19 day of June, an. R. &c. 4 held the Tenements aforesaid, with the appurtenances, noz any parcel thereof, together undivided with the same Carl E and K as the same Carl E and K by their Writ and Declaration aforesaid above supposed. And of this he putteth himself upon the Countrey. And the same Carl E and K likewise. Therefore the Sheriff is commanded that he cause to come here tres trin. twelve, &c.

T 30. Eliz. Rot. 56. one Partner and the Feoffee of another Partner, bring their Writ of Partition at the Common Law, against two other Partners.

Partition be-
Tenants in
Common,

P 2. Jic. Rot. 14 5. Brownlow, Essex. A against R B. partition between Tenants in Common of Lands, in W. the Tenant pleads not nec pro indiviso the Jurors finde specially that befoze the Teste of the same Writ the Plaintiff and one W A held the lands as Tenants in common. And that they 11 of J. an. 14 38 Eliz. by the mediation of friends made partition between them of the Tenements aforesaid without any deed in writing according to the tenor of an award made between them by N P and three others dated 11 January 38 Eliz. and And the award in these wordes. by which award they entred into their severall purpoys, and were seized of them. And that the same W A befoze the Teste of the Writ infeoffed the Defendant of his purpoys in fee, whereby he entred and was thereof seized, And that the

two parties enjoyed their severall purpoyties befoze the atteste of the said Court, but whether upon their whole matter, &c. That the said Partition made be a good and lawfull Partition in Law or not, the Jurors pray advice of the Court, &c.

M 44 Eliz. Rot. 2777. Kanc. ff. J L widow in mercy for many defaults, &c. the same I was summoned to answer H L Gentleman G L Esquire and T L Gentleman of a Plea, wherefoze whereas the same H G and T and the same I together, and without division held the Mannours of G S and S with the appurtenances, and ten shill. ten pence, two Dove-houses, six Barns, ten Gardens, sixty acres of Land, one hundred acres of Meadow, three hundred acres of Pasture, thirty acres of Wood, twenty acres of Furze and Heath, thirty acres of Marsh, and twenty shillings Rent with the appurtenances of the inheritance, which was of G L Esquire, Father of the same H G and T three heirs of the same G L Esquire, they are in M B B and S the same I to make partition thereof between them according to the Law and Custome of the said Lady the Queen of England gainesayeth, and the same to be done unjustly doth not permit; And whereupon the same H G and T by T R their Attorney say, that the same G L Esquire was seized of the Mannours, Tenements, and Rent aforesaid with the appurtenances in his demeasne as of fee; And the same G L being so thereof seized, leyed a certain fine in the Court of the Lord Philip and the Lady Mary late King and Queen of England, at Westminster in the County of Middlesex in oct. sancti Mich. an. R. &c. 1, & 2, befoze R B H B, E B S and W C then Justices; And afterwards in oct. sancti Hill an. &c. aforesaid there granted and recorded, befoze the same then Justices and other faithfull people of the said Lord the King then there present, between T L Knight and E B, his then wife Plaintiffs, and the same G L Esquire and one J his then wife defendants of the Mannours, Tenements, and Rent aforesaid, with the appurtenances among other things, whereof a Plea of Covenant was summoned between them in the same Court, to wit that the same G L Esquire and I acknowledged the Mannours, Tenements and Rent aforesaid with the appurtenances to be the right of the same T L Knight, as those which the same T and E B have of the gift from the same G L and J; and the same remised, and quit claymed of the same G and J and the heirs of the same G to the same T L Knight, and E B, and to the heirs of the same T the same Mannours, Tenements, and Rent with the appurtenances against the same G L Esquire, and J and the heirs of the same G for ever; and for this acknowledgment, remise, quit claym, warranty, fine and concord, the same T and E B granted to the same G L Esquire and J, the same Mannours, Tenements, and Rent with the appurtenances, and the same rendered to them in the same Court; To have and to hold to the same G and J and the heirs males of the body of the same G lawfully begotten, as by the Record of the same fine in the said Court of the Common Bench here to wit at Westminster aforesaid remaining more fully appeareth. By vertue of which said fine the same G L Esquire, and J his wife into the Mannours, and Tenements aforesaid, with the appurtenances entred, and were thereof, and of the Rent aforesaid seized, to wit the same G in his demeasne as of free tail, to wit to him and his heirs males of his body lawfully begotten, and the same J in her demeasne as of free Tenement for terme of her life, and they being so thereof seized, the same J at Westminster (such a day) died seized of such her estate; and the same G L Esquire survised her, and was thereof seized in his demeasne as of fee tail, to wit to him and the heirs males of his body lawfully begotten, and being so thereof seized, the same G L Esquire had issue male of his body lawfully begotten, one R L Knight, and the same H G and

A generall Writ and speciall Court at the common Law between Partners for Gavelkinde Lands.

Spec. Com. in Partition between Tenants in common - H 2. Ja. Rot. M. C.

Fine to render to the Husband and Wife Cognizes and their heirs male.

The Feme Cognizer dyeth.

The Baron dyeth having issue.

Tenure in Ga-
velkinde.

One of the
heirs Levies a
Fine to his
own use and
his wives, and
to the use of
his heirs, for
his purport.

The Husband
dyeth and the
wife surviveth

T and VV L and the same G L Esquire being so thereof seized, the same G L Esquire at VVestminster aforesaid such a day, died of such his estate therein seized, after whose death the same Mannour, Tenements and Rent aforesaid, with the appurtenances, for that the same Mannour Tenements, and Rent aforesaid, with the appurtenances are, and from the time, whereof the memory of man is not to the contrary, were of the tenure and nature of Gavelkinde, and all Lands, and Tenements with the appurtenances, which are of the tenure and nature of Gavelkinde in the County aforesaid are, and from the time, whereof the memory of man is not to the contrary, were partable, and parted between the heirs Males, descended to the same R L Knight, H L, T L, G L and V L, as coheirs Males of the body, of the same G L Esquire lawfully begotten, whereby the same R H, T C and VV into the Mannours, and Tenements aforesaid, with the appurtenances entered, and were thereof and of the Rent aforesaid seized in their demeasne as of fee simple, to wit to them and the heirs Males of their bodies lawfully begotten, and the same being so seized thereof, leuyed a certain Fine in the Court of the said Lady the Queen now of the Common Bench here, to wit at VVestminster aforesaid 5. Pal. an. 8. c. 41 before E A T W, J G, and G K, then Justices, and other faithfull people of the same Lady the Queen then and there present, between one C T then Plaintiff, and the same R L Knight, and the same J, his wife, Desorcant of the purport of the same R of the Mannours, Tenements, and Rent aforesaid, with the appurtenances by the names of the Mannours of Q S and with the appurtenances and of ten shillings for Dotts &c. with the appurtenances in M. B. B. and J. whereof a Plea of Covenant was summoned between them in the same Court, to wit the same R and I acknowledged the Mannours and Tenements aforesaid with the appurtenances to be the right of the same C. As thole which the same C hath of the gift of the same R and I and the same testified, and guilt claimed of the same R and I, and the heirs of the same R to the same C and his heirs for ever. And besides the same R and I granted for themselves, and the heirs of the same R, that they will warrant to the same C and his heirs, the Mannours, & Tenements aforesaid, with the appurtenances against the same R & I and the heirs of the same R for ever. As by the Record of the same Fine in the same Court of the Common Bench aforesaid, remanynng more fully appeareth, which said Fine in forme aforesaid leuyed of the said purport of the said R of the same Mannours, Tenements and rent aforesaid with the appurtenances to the use of the same R and I and the heirs of the same R for ever; By vertue of which said fine and vigour of a certain Act de usus in possessionem trans eund. held in the Parliament of the said Henry, late King of England, the eighth at Westminster in the County of Middlesex the fourth day of February an. 8. c. 27. made and provided: the same R L Knight, and Jane his wife were seized of the said purport of the said R of the said Mannours, Tenements, and Rent aforesaid, with the appurtenances to wit the same R in his demeasne as of fee. And the same Jane in her demeasne as of free Tenement for terme of her life, And the same R and I being so thereof seized: And the same H G I, T and V Gentlemen, of their purports of the same Mannours Tenements and Rent, with the appurtenances in their demeasne as of fee simple, in forme aforesaid being seized, the same R L at Gavelkinde, of such his estate thereof died seized, without any heir Male of his body begotten. And the same J survived him, and held himself within the Mannours Tenements and Rent aforesaid with the appurtenances, and was and yet is of the same purport of the said R thereof seized in his demeasne as of free Tenement for terme of his life, per jus accrescendi, &c. the reversion thereof after the decease of the said Jane to certain F L and D L daughters and coheirs of the said R and their heirs belonging; And the same Jane being

to thereof seized; And the same H G T and W L. of their purparts of the same Mannors, Tenements, and Rent with the appurtenances in their demesne as of fee taylor in toyme aforesaid being seized, the same Q W at aforesaid, died of such his estate thereof seized as aforesaid, without any heirs male of his body begotten, after whose death the purport of the same VV of the Mannors, Tenements, and Rent aforesaid with the appurtenances according to the custome aforesaid, descended to the same H G and T as Brothers and Coheirs males of the same VV by which the same H G and T were and yet are thereof, and of their said purports, of the said Mannors, Tenements and Rent aforesaid with the appurtenances seized in their demesne as of fee taylor, to wit, to them and the heirs males of their bodies lawfully proceeding; And to the same H G and T say that they the same H G and T and the same Jane together, and without division held the Mannors, Tenements and Rent aforesaid, with the appurtenances of the inheritance, which was of the same G L Esquire deceased, the Father of the same H G and T three heirs males, of which said G L Esquire of his body begotten the same H G and T Gentleman are, whereof to the said H, and the heirs males of his body begotten, doth belong to have one part of the Mannors, Tenements and Rent aforesaid with the appurtenances into five parts equally to be divided, and the third part, of one other first part of the same five parts into three parts to be divided of the same Mannour, Tenements, and Rent aforesaid with the appurtenances; And to the same G L Gentleman, and to the heirs males of his body lawfully begotten, doth belong to have another fourth part of the same Mannors, Tenements and Rent with the appurtenances as is above said to be divided; And to the same H and his heirs males of his body lawfully begotten, doth belong to have another fourth part of the same Mannors, Tenements and Rent with the appurtenances into five equal parts to be divided, and the other third part residue of the said five parts, into three parts, to be divided of the same Mannors, Tenements and Rent aforesaid with the appurtenances as is above said. And unto the same J ne the late wife of the same R L Knight, doth belong to have the other fifth part residue of the Mannors, Tenements and Rent aforesaid with the appurtenances into five equal parts, as is above said to be divided, to hold to them in severally, so that the same H of his purport to him out of the Mannors, Tenements and Rent aforesaid, with the appurtenances hapning; And the same G L Gentleman of his purport, out of the Mannors, Tenements and Rent aforesaid, with the appurtenances hapning; And the same T of his purport of the Mannors, Tenements, and Rent aforesaid with the appurtenances hapning; And the same Jane of her purport to her out of the Mannors, Tenements and Rent aforesaid with the appurtenances, hapning may severally themselves appropriate, the same Jane to make Partition thereof, between them according to the Law and Custome of the Realm of the said Lady the Queen now of England gainsayeth. And the same unjustly doth not suffer to be done: whereupon they say they are the worse, and have damage to the value of five hundred pound, And thereupon they bring suit, &c.

Another of the same Brothers and Coheirs dyeth without issue, and her purparty descendeth to the Plaintiffs.

TH H 8 Rot. 129. Jenor Ebor. R. W C and his wife relict. R R and Joan his wife of a Plea, wherefore whereas the same R and W and A together and undividedly held sixteen Mes. seventeen Cot. four hundred and twenty acres of Land, two hundred and sixty acres of Meadow, three hundred acres of Pasture, 4 l. 14 s. and 1 d. on Rent with the appurtenances of the inheritance which was of R H Grandfather of the same A and A whose heirs they are in T H and E. And wherefore whereas the same R and I W and A together and undividedly held thres Mes. two Totts, sixty acres

Between Partners for Lands of severall inheritances.

of land 50 acres of meadow, and 100 acres of Pasture with the appurtenances which was of John Holme, brother of the same I and A whose heirs they are in T. The same W and A to make partition thereof between them according &c. gainesay, and the same to be done unjustly do not permit, and thereupon declares upon severall properties, and the Defendants confesse the action.

Between Partners upon several inheritances in Gavelkind of lands.

Count upon seizure in fee of part of the land in the writ by the *Amu.*

Tenure in Gavelkind.
Descent to four Brothers and Coheirs of three acres parcel, &c.

H 20 J. C. Rot. 3164. Gulston Kane, ff: S E was summoned to answer E H of a Plea wherefore whereas the same E of her purpart to her out of 8 acres of land, and of 4 parts of one messuage, one barn, one garden, one orchard, 4 acres of land, 22 acres of Pasture and common of pasture for 2 Cows, with the appurtenances in B and P which were of I E brother of the said E to whom he is one of the heirs hapning, and the same E by virtue of a certain feoffment to him by H E Son and heir of N E another of the Brothers and heirs of the same I of his purpart to the same H out of the same eight acres of land, and four parts of the same mes. Barne, Garden, Orchard, four acres of land, two and twenty acres of pasture, and common of pasture, with the appurtenances hapning made, And the same E by virtue of another feoffment to him by E E, another of the Brothers and heirs of the same I of his purpart the same E out of the same eight acres of land, and four parts of the aforesaid mes. Barne, Garden, Orchard, four acres of land, twenty two acres of pasture, and common of pasture with the appurtenances hapning made; And the same S another of the Brothers and heirs of the same I for his purport to him out of the same eight acres of land, and four parts of the aforesaid mes. Barne, Garden, Orchard, four acres of land, twenty two acres of pasture, and common of pasture with the appurtenances hapning made; And the same S by virtue of the feoffment to him, by the same H E Cousen and one of the heirs of one Jane Grandmother of the same H of his purport, the same H out of the same mes. &c. with the appurtenances hapning made together, and undivided held the same tenements, and common of pasture with the appurtenances hapning, the same S Partition thereof to be made between them according to the Law and custome of the Realm of the said Lord the King now of England gainesayeth, and unjustly doth not permit the same to be done; And whereupon the same E by W. C. his Attorney saith, that whereas the same E and the same C together, and undivided held the tenements and common of pasture aforesaid, with the appurtenances, for that the same tenements, and common of pasture with the appurtenances, are of the tenure and nature of Gavelkind; And all lands, and tenements, with the appurtenances, which are of the tenure and nature of Gavelkind in the County aforesaid are, and from the time, whereof the memory of man is not to the contrary, were partible and parted among the heirs males, for that the same I E was seized of the same eight acres of lands with the appurtenances parcel, &c. in his demesne as of fee; And being thereof seized, the same J. afterwards at B aforesaid dyed of such his estate thereof seized, without issue of his body coming, after whose death the same eight acres of land, with the appurtenances parcel, &c. descended to the same Erasmus E Edw. E S E. and H E to wit the fourth part of the same eight acres of land, with the appurtenances to be divided into four equal parts descended to the same Erasmus as Brother and one of the heirs of the same John, and the other fourth part thereof descended to the same Edw. as Brother and one of the Coheirs of the same J. And another fourth part thereof descended to the same S as Brother and another of the Coheirs; And the fourth part thereof residue descended to the same H as Cousen, and another of the heirs of the same J. h., to wit Son and heir of the same N E another of the Brothers and heirs of the same John, by which the same E E S and H into the

same

same eight acres of lands with the appurtenances parcell, &c. entred and were thereof seized in their demesne as of fee. And the same eight acres of land with the appurtenances together and undivided belo; And they being so thereof seized, the same H afterwards to wit such a day, year, and place aforesaid, by his certain writting of Release which the same Erasmus with the seal of the same H sealed here in Court bringeth, whose date is the same day and year remised, released, and altogether for him and his heirs for ever quit clagmed to the same Erasmus, and his heirs his whole state, title, and interest. which he then had of, and in the same eight acres of land with the appurtenances parcell, &c. By vertue whereof the same Erasmus was and get is seized of the other fourth part of the 8. acres of land with the appurtenances in his demesne as of fee, and the same other fourth part of land with the appurtenances parcell by is together and undivided; And so thereof and of the same 8. acres of land with the appurtenances parcell, &c. being seized, the same E. and of the same other feberall four parts of the same 8. acres of land, with the appurtenances parcell, &c. in form aforesaid being seized, the same E. afterwards to wit such a day year, and place aforesaid by his certain writting of Release, which the same E. with the seal of the same H sealed, bringeth here into the Court, whose date is the same day and year, remised, released, and alwaies for him and his heirs for ever quit clagmed to the same Erasmus and his heirs his whole state, right, title & interest. which he then had of, in the same 8. acres of land with the appurtenances parcell, &c. By vertue whereof the same Erasmus was, and get is seized of the other fourth part of the same 8. acres of land with the appurtenances in his demesne as of fee and so the same Erasmus, and Solomon hold together and undivided, the same 8. acres of land with the appurtenances parcell, &c. And also for that the same J E was seized of the same one mes. with the appurtenances residue, &c. in her demesne as of fee; And so being thereof seized, the same J afterwards at B aforesaid, took to husband one R E by which the same R and J in the right of the same J were seized of the same tenements, and common of pasture, with the appurtenances residue in their demesne as of fee; And being so thereof seized, the same R & J had issue between them the same N E, J E, E E, E E and S E. And afterwards to wit the 7. day of April an. Eliz. 37. the same N E had issue of his body lawfully begotten the same H E. And afterwards at B aforesaid died, after whose death the same J afterwards to wit the 21. day of February an. Eliz. &c. at B aforesaid likewise dyed of such his estate of, and in the tenements aforesaid with the appurtenances residue, &c. seized after the death of which said John, as aforesaid, the mes. &c. with the appurtenances residue, &c. descended to the same J E, E E, E E, S E. and H E. to wit the first part thereof the same mes. &c. and common of pasture with the appurtenances into five equall parts to be divided, descended to the same John, as Son and one of the heirs of the same J one; And another first part thereof descended to the same Erasmus as Son, and another of the heirs of the same J. And another first part thereof descended to the same Ed. as Son, and one other of the heirs of the said one. And another first part thereof descended to the same J. as Son, and another of the heirs of the same J. and another first part thereof residue descended to the Son H as Colen and another of the heirs of the said J. to wit Son and heir of the same N E another of the Daughters of the said one, whereby the same John Erasmus E S and H in to the mes. &c. with the appurtenances residue, &c. entred and were thereof seized in their demesne as of fee; And the same tenements and common of pasture residue, &c. held together undivided; And they being so thereof seized the same J E, E E and S afterwards to wit, the 10. day of January an. Eliz. 39. of the same mes. &c. with the appurtenances residue, &c. amongst other things incoffed H D and S C to hold to the same H and S and their heirs to the use of the same J. his heirs and assigns for ever; By vertue of which Feoffment

One of the Coheirs releaseth his right to the Plaintiff.

Another of the Coheirs releaseth to the Plaintiff as above.

See the Plaintiff and Defendant hold together, &c.

Seisin in fee of the residue of the land in this Writ by another Ancestor who had five Sons. One of the Sons had the same H, named in the Writ and afterwards dyed Descend to the same H. and the four other Brothers and Coheirs to wit the first part thereof to one and so of the rest.

Four of the said Coheirs, with the said four Brothers, make a Feoffment of their parts to S for the use of one of them and his heirs,

The sole tenant in fee dyeth and the said 4. parts descend unto the other three Brothers and H, the said Son of the other Brother to wit, and shews how.

The same H. the Cosen and heir of his fourth part releaseth his right to the Plaintiff.

The same H. the Cosen of his said fifth part inf. off. the Defendant

The other of the said three Brothers releaseth his said fourth part to the Plaintiff.

ment and force of a certain Act of the Lord Hen. late King of Eng. the 8 at West. in the County of Mid. the 4. day of Feb. an. &c. 27 of transferring uses into possession held, made & provided, the same J was seized of the same 4. parts of the same mes. &c. with the appurtenances residue, &c. in his demesne as of fee. And being so thereof seized the same J afterwards to wit the 24. day of Apr. an. Edw. &c. 39 at B aforesaid died of such his estate thereof seized without issue of his body begotten after whose death the same 4. parts of the same mes. &c. with the appurtenances residue, &c. descended to the same Era. E. S. and H to wit the fourth part thereof of the same 4. parts of the same mes. &c. with the appurtenances residue &c. into 4. equal parts to be divided descended to the said Era. as Brother and one of the heirs of the same J. And another 4. part thereof descended to the same E. as Brother, & another of the heirs of the same J. and another 4. part thereof descended to the same as Brother and another of the heirs of the same J. And the 4. part thereof residue descended to the same as Cosen, and another of the heirs of the same J. to wit Son and heir of the same. NE another of the Brothers and heirs of the same J. whereby the same E. S. & H into the same 4. parts of the tenements and common of pasture with the appurtenances residue held together undivided. The same H. of his said 5. part of the same tenements & common of pasture with the appurtenances residue, &c. And of his said 4. part of the 4. parts of the same tenements and common of pasture with the appurtenances residue, &c. in form aforesaid being seized, afterwards to wit the 14 day of March an. R. &c. 9. aforesaid at B aforesaid by his certain writting of release, which the same Era. with the Seal of the same H signed bringeth here into Court, whose date is the same day and year remised, released, and altogether for himself and his heirs for ever quit claimed to the same Ed. and his heirs his whole state right and interest, which he then had of, and unto the same mes. &c. with the appurtenances residue, &c. By virtue whereof the same Era. was and yet is seized of another 4. part of the 4. parts of the mes. &c. with the appurtenances residue &c. in his demesne as of fee, and the same other 4. part of the aforesaid 4. parts of the same tenements and common of pasture with the appurtenances residue, &c. held together and undivided; And so thereof, and of the said 4. part of the same 4. parts of the tenements and common of pasture with the appurtenances residue, &c. being seized; And the same E. and H of the same their severall other parts of the aforesaid mes. &c. with the appurtenances residue, &c. in form aforesaid being seized the same H. of his said 5. part of the said mes. &c. with the appurtenances residue &c. infeoffed the same to hold to the same and his heirs for ever by virtue of which infeoffment the same was and yet is seized of the same 5. part of the same tenements and common of pasture aforesaid with the appurtenances residue &c. in his demesne as of fee, And the same 5. part of the same tenements and common of pasture with the appurtenances held together and undivided; and the same so thereof and of the said 4. part of the same 4. parts of the said mes. &c. with the appurtenances residue, &c. in form aforesaid being seized; And the same Era. of two parts of four parts of the same four parts of the same tenements and common of pasture aforesaid with the appurtenances residue, &c. in form aforesaid being seized; and also the same Era. of his said 4. part of the same 4. parts of the same tenements and common of pasture aforesaid with the appurtenances residue, &c. in form aforesaid being likewise seized the same E. afterwards to wit the 3 day of July an. R. &c. 19. aforesaid at B aforesaid by his certain writting of release which the same Era. with the Seal of the same Ed. sealed here in Court bringeth whose date is the same day & year remised, released, & allwaies for himself & his heirs for ever quit claimed to the same Era. & his heirs his whole state, right, title & interest which he then had of & in the said mes. &c. with the appurtenances residue, &c. by virtue whereof the same Era. was & yet is seized of another 4. part of the same 4. parts of

of the same four parts of the said Tenements and Common of Pasture, with the appurtenances residue, &c. in his demesne, as of fee. And so the same Erasmus and I hold together and undivided the said mes. &c. with the appurtenances residue, &c. and whereupon it belongeth to the same Erasmus to have three parts of the same two acres of land, with the appurtenances parcel, &c. (the same eight acres of land with the appurtenances, being divided into four equal parts.) And three parts of the said four parts of the said mes. &c. with the appurtenances residue, &c. (the same four parts of the same Tenements and Common of Pasture, with the appurtenances residue, &c. into four equal parts divided) And unto the same I belongeth to have the fourth part remaining of the same eight acres of land with the appurtenances parcel, &c. And the fourth part remainder of the said four parts of the said mes. &c. with the appurtenances residue, &c. And the fifth part of the said mes. &c. and Common of Pasture, with the appurtenances, the same Tenements and Common of Pasture with the appurtenances, into five equal parts to be divided. To hold to them in severalty, so that the same Erasmus of the same three parts and four parts aforesaid to him, out of the said Tenements and Common of Pasture aforesaid having. And the same I of the said fourth part of four parts, and fifth part to the same I out of the said Tenements and Common of Pasture, with the appurtenances having, may severally appropriate themselves the same I to make thereof partition between them, according to the Law and custom of the Realm, our Lord the King now of England, &c. gainfully, and the same unjustly doth not permit to be done, whereupon he saith, he is the worse, and hath damage to the value of 10 l. And thereof he bringeth Suit, &c.

And so the Plaintiff and Defendant hold together, &c.

M. 1. E. 6. for, 619. Rockwood Kane. H. T. B. Knight Lord B. was summoned to answer R. P. gent. and Anne his wife daughter and heir of H. B. Esq. of a plea, wherefore whereas the same R. and A. in the right of the same A. and the same I. hold together undivided, the Mannors of J. and with the appurtenances, and 10. mel. 1. water mill 2000 acres of Land 1000. acres of Meadow, 2000. acres of Pasture, and 1000. acres of Wood in S. A. &c. of the inheritance of Anne who was the wife of E. B. Knight, mother of the same I. and grandmother of the same A. whose heirs the same T. and Anne according to the custome of Gavelkind in the same County are the same I. to make partition thereof between them according to the law and custome aforesaid gainfully, and the same doth not permit to be done, and that very unjustly. And whereupon the same R. and A. his wife, by T. F. their Attorneys say, that whereas the same R. and A. in the right of the same A. and the same I. hold together undivided, the Mannors and Tenements aforesaid with the appurtenances of the inheritance of the same A. who was the wife of the same E. B. Knight, mother of the same T. and Grandmother of the said A. his wife, whose heirs the same T. and A. according to the Law and custom aforesaid, are for that the Mannors and Tenements aforesaid, with the appurtenances, are of the nature and tenure of Gavelkind, in the County aforesaid. And that all Mannors and Tenements of the same tenure and nature, from the time whereof the memory of man is not to the contrary, were partible and parted between the heirs males, whereby it belongeth to the same R. and A. his wife, in the right of the same A. daughter of the same H. son of the same A. who was the wife of the same E. B. to have one moiety of the Mannors and Tenements aforesaid, with the appurtenances, to hold to them in severalty, so that the same R. and A. his wife, of the moiety of the Mannors and Tenements aforesaid, with the appurtenances to the same A. having, may appropriate themselves, and the same I. of the other moiety to him having, may appropriate himself the same T. partition thereof between them, according

General Writ as common Law for Gavelkind lands.

Count.

ing to the Law and custom aforesaid, to be made gainfully. And the same doth not suffer to be done, and that very unjustly; whereupon they say they are the worse, and have damage to the value of 600 l. and thereof bring Suit, &c.

The Defend.
makes a title
to himself, and
traverseth
Abys hoc, that
he and the
Plaintiffs hold
together, &c.

And the same T by I S his Attorney, cometh and defendeth the force and wrong when &c. And saith, that Partition between him and the same T and A his wife, ought not to be made, because he saith, that the same A who was the wife of E B was seized of the said Mannors and Tenements, with the appurtenances in her demesne, as of fee. And being so thereof seized of such her estate, therein dyed seized: After whose death, those Mannors and Tenements aforesaid, with the appurtenances descended to the same T as son and heir of the same A by which the same T into the same Mannors and Tenements aforesaid, with the appurtenances entered, and was thereof seized in his demesne, as of fee, without that that the same T and the same R and A his wife, hold together undivided, or at the day of purchasing of the Original Writ of the same R and A his wife held the Mannors and Tenements aforesaid, with the appurtenances, as the same R and A by their Writ and Declaration aforesaid above suppose. And this he is ready to verify, whereupon he prayeth judgement, if Partition between him and the same R and A his wife, ought to be made, &c. And the same R and A his wife say, that they by any thing before alleged from their Partition with the said T, having, ought not to be barred, because they say that the same R and A his wife in the right of the same A and the same T at the day of purchasing the Original Writ of the same R and A his wife, to wit, the 20 day of May an. R, &c, primo, held together undivided the Mannors and Tenements aforesaid, with the appurtenances, as they by their Writ and Declaration aforesaid above supposed. And this they say may be inquired of by the Countrey, and the same T likewise, therefore the Sheriff is commanded, that he cause to come here in Octob. Mart. 17, &c.

General Writ
at the common
Law for lands
within the
Soke of Ley
within the
county of Leic.
which are of
the nature of
Gavelkinde.
Special count
upon the cus-
tom.

M 29 Eliz. Rot. 1046. Radford, Leic. ff. T Cq; was summoned to answer HE Gent. and C Gent. of a Plea, wherefore wheress the same H T and I hold together undivided one and twenty mes. one mill, five hundred acres of land, one hundred acres of meadow, and one thousand two hundred acres of pasture, with the appurtenances of the inheritance, which was of C T Cq; Father of the same H T and I whole heirs they are in H the same I to make thereof Partition between them, according to the Law and custom of the Realm of Eng. Queen of England gainfully. And the same unjustly doth not permit to be done. And whereupon the same H and C the son by W P their Attorney say, that whereas the same H and C his son, and the same J hold together and undivided the Tenements aforesaid, with the appurtenances of the inheritance which was of the same C the Father, whose heirs they are, so that the Tenements aforesaid, with the appurtenances are, and from the time whereof the memory of man is not to the contrary, were within the Soke de Ley in the County aforesaid, and that all the Lands and Tenements which are within the same Soke are, and so the whole time aforesaid were of the nature and tenure of Gavelkinde. And that all the Lands and Tenements are of the same nature and tenure in the same Soke, and according to the custom in the same Soke, from time whereof no memory is to the contrary, were between the heirs males by the whole time aforesaid partible and parted; whereof to the same H and his heirs, doth belong to have one part of the Tenements aforesaid with the appurtenances into three equal parts to be divided. And to the same the son, and his heirs, doth belong to have another part of the same Tenements, with the appurtenances, into three parts, as aforesaid to be divided. And to the same J and his heirs doth belong to have the third

third part residue thereof, to hold to them in fealty, so that the same H of his purport to the same H. out of the Tenements aforesaid, with the appurtenances hapning. And the same C the son of his purport to him out of the same Tenements, with the appurtenances hapning. And the same I of his purport residue to the same I out of the same Tenements, with the appurtenances hapning, may severally appropriate themselves, the same I partition thereof between them according to the Law and custom of the Realm of the said Lady the Queen of England to be made, gainstlast. And the same doth not suffer to be done, unjustly; whereupon they say, that they are the worse, and have damage to the value of 20 l. and therefore bring Suit, &c. And the same I by I W his Attorney, cometh and defendeth the force and wrong when, &c. and saith, that partition between the same I and the same H and C his son of the Tenements aforesaid, with the appurtenances, ought not to be made, because by protestation that there is not, nor from the time whereof the memory of man is not to the contrary, was any Sok: known or called by the name of R. Sok: in the County aforesaid, protesting also, that the Tenements aforesaid, with the appurtenances, are not within the same Soke of R. protesting also, that all the Lands and Tenements, which are within the same Soke, are not, nor by the whole time aforesaid, were of the nature and tenure of Gavelkinde, nor that all the Lands and Tenements within the same Soke are and according to the custom in the same Soke from the time whereof no memory is to the contrary, were between the heirs males by the whole time aforesaid partible and parted; As the same H and C his son by their Declaration aforesaid above suppose: so, plea the same I saith, that he doth not hold nor the day of the purchasing of the Original Writ of the same H and C his son held the Tenements aforesaid, with the appurtenances or any parcel thereof, together and undivided with the same H and C his son, in manner and form, as the same H and C by their Writ and Declaration aforesaid above suppose. And this he is ready to verify, whereupon he prayeth judgement, if partition between the same I and the same H and C his son, of the Tenements aforesaid with the appurtenances ought to be made, &c.

And the same H and C say, that they by any thing before alledged from partition of the Tenements aforesaid, with the appurtenances to be made, ought not to be barred, because they say that the same J doth hold, and the day of the purchasing of the Original Writ of the same H and C his son; to wit, the fourth day of May, an. &c. 29. held the Tenements aforesaid, with the appurtenances, together undivided with the same H and C his son, as the same H and C his son by their Writ and Declaration aforesaid, above do suppose. And this they pray may be inquired of by the Countrey. And the same J likewile therefore for xli. &c.

The Defend:
protesteth that
there is no
such Soke cal-
led, &c. and
that the lands
are not of Ga-
velkinde.

For plea, that
they hold not
together, &c.

N n n n n

Pleg.

PLEG. ACQUIETANDIS.

Pleg. acquie-
tand.

M. 8. Jac. Rot.
3003. P. 12.
Eliz. Rot. 447.
M. 10. & 12.
Eliz. Rot.
1367. T. 12.
Eliz. Rot. 826.
Against B.
The like by an
Administrator
upon a Bond.
P. 21. Eliz. Rot.
981. P. against
C.

T 1. Jac. Rot. 795. or 759 Herif. fl. J. M. late of &c. Administratrix of the Goods and Chattles which were of R M who died intestate &c. late called &c. was summoned to answer W W one of the Attorneys of the Court &c. of a plea, that he acquit him of thirty pounds, whereof the same R put himself in pledge for the same T A and him thereof hath not yet acquitted &c. and whereupon the same W W in his proper person saith, that whereas he at the speciall instance and request of the same R in his life time and for the true debt of the same R such a day and year at the City of Herif. by his certain writing obligatory, became bound to the same T A, together with the same R in the same thirty pounds, with a condition to the same Bond subscribed for the true paymen of fiveteen pounds of lawfull mony of England, upon such a day then next following; at which said certain day the same W C H afore said requested the same R as principall debtor to pay to the same T the said fifteen pounds, and the same R the same to the said T to pay then and there altogether refused; and the same fiveteen pounds to the said T at that day paid not, whereupon the same T afterwards to wit in Easter tearm Ann. Eliz. Regin. 43. by his Writ of debt upon demand of the said thirty pounds impleaded the same W in the same Court of the said Lady the Queen here for the same thirty pounds, whereupon, to wit in the same Court of the said Lady the Queen here it was proceeded that the same T recovered against the same W, aswell the said thirty pounds as twenty shillings which to the same T in the same Court were adjudged for his Damages which he had by occasion of the detayning of that Debt, by force of which recovery, the same W aswell the same thirty pounds for debt, as twenty shillings for Damages afore said in forme afore said recovered, afterwards to wit such a day and year at C H afore said, paid to the same T notwithstanding the same R in his life time, and the same I after the death of the same R, to whom the administration of all the Goods and Chattles which were of the same R at the time of his death by F B &c. at H was committed, although often requested the same W against the same T of the same thirty pounds whereof he put himself pledg against the same T for the same R have not acquitted but him to acquit gain sayed, and the same I him thereof to acquit hitherto gain sayeth, whereupon he saith he is the wisse and hath dammage to the value of forty pounds, and thereupon he bringeth suit &c.

And the same I by &c. when &c. and sayth that he is not informed by the same I his Client &c. for which the said W his dammages by occasion of the premises against the same I ought to recover &c. but because it is not known &c.

SEE Easter 11. Eliz. Rot. 556 Issue fl. J P late of London Grocer was summoned to answer G T of a Plea that he acquit him of thirty pounds whereof he hath put himselfe pledge against A S and him as yet hath not acquitted &c. and whereupon the same G by his attorney saith, that whereas the same J the 26 day of June Anno Reg. Ed. 6. was indebted to the same A in thirty pounds, and for the greater security and true payment of the said thirty pounds the same G to the said A together with the same J at the request of the same J the same day and year at London in the parish &c. by his certain writing obligatory granted himself to be holden to the said A in the same thirty pounds, and himself against the said A put in pledg for the same 30 l. to be paid to the same A at the Feast of &c. then next following, at which said Feast the said A requested

requested the same *I.* as principal debtor, to pay to the same *A.* the said 30 *l.* which the same *I.* unto the said *A.* then paid not, but the same to him to pay altogether refused, whereby the same *A.* afterwards, to wit, the 10. day of October, Anno *Mariae* &c. 1. at Guild-Hall London, a certain plaint against the same *G.* before *W. H.* then one of the Sheriffs of London aforesaid, levied: by vertue of which plaint the same *G.* the said 30 *l.* paid: nevertheless, the same *I.* although often requested him the said *G.* against the said *A.* for the same 30 *l.* whereof he put himself pledg against the same *A.* to be acquitted, hath not as yet acquitted, but him hitherto to acquit, hath gainsaid, and yet gainfaith, &c. And the same *I.* protesteth, that he knew not the same *I.* to be indebted to the same *A.* as the same *G.* by his declaration aforesaid above supposeth, for plea saith that the said *G.* *Actio non* because he saith that the same *G.* joyntly with the said *A.* for the payment of the said 30 *l.* to the same *A.* was bound without this, that the same *G.* for the greater Security and true payment of the same 30 *l.* to the same *A.* together with the same *I.* at the request of the same *I.* the same 26th day of January Anno. 6. abovesaid at London, in the Parish &c. by the same writing, granted himself to be holden to the same *A.* in the said 30 *l.* and himself against the same *A.* put in pledg for the same 30 *l.* to be paid to the same *A.* at the said Feast &c. then next following in manner and form as the same *G.* above against him declared, and this &c. whereupon &c. if he ought to acquit the same *G.* of the said 30 *l.* &c. And upon this traverse the Plaintiff takes issue.

T. 8. Eliz. rot. II. 24. Staff. between *T.* and *T. Count* in pladg acquitandis the Plaintiff was bound with the Defendant to *A.* by bill, and for not payment of the principal debt *A.* impleads *T.* in an inferiour Court, and recorded against him, and that he paid the debt *M. 8.* and *9. Eliz.*

PROHIBITION.

T. 9. Jac. rot. 185. Brownlow Suff. II. R. S. of the Parish of *St. M.* in the County aforesaid, Yeoman and *E. C.* of the Parish aforesaid Gent, who brought the writ of the said Lord the King against *I. C.* gent. Farmer of the Rectory of the Parish Church of *S. M.* in *S.* aforesaid and all and singular and of all and singular Tiths, Rights, and Ecclesiastical emoluments to the same Church in any manner belonging or appertaining of a plea, wherefore he followed a plea against the same *R.* and *E.* in the Court Christian, after the Kings prohibition to him in the contrary thereof, directed and delivered him not prosecuted their said writ, therefore they and their pledges to prosecute are thereof in mercy, be the names of the pledges inquired, and the same *I. C.* go thereof without day &c. And it is to be known, that the same *R.* and *F.* otherwise, to wit, the 27th day of May, in the Terme of the holy Trinity Anno *R.* &c. 6. by *R. F.* their Attorney came here into the Court, and gave here to be understood and informed, that whereas &c. (reciting the whole Prohibition whereupon the same *R. S.* and *E.* humbly imploring the aide and Munificence of the said Lord the King now here pray remedy, and the writ of the said Lord the King of prohibition to be directed to the same spirituall Judg to prohibit him, that he the severall pleas aforesaid, nor any of them in any thing touching the Premises before him further hold, and thereupon the same *R.* and *C.* in the same Court here obtained the writ of the said Lord the King of prohibition to be directed to the said Spirituall Judg, by pretext of which said writ, the same spirituall Judg at the present delayed and deferred, further in the same pleas aforesaid in the said Court Christian to do and proceed, as by the information of the said *I. C.* the King hath understood, And because

Non-suit in prohibition.

the same *R* and *E* their said plea now here in Court have not presented: Therefore it is commended to the same Spiritual Judge, or to another competent Judge in this behalf, that in the several pleas aforesaid against the same *R* and *E* in the same Court and Prohibition with convenient speed, he according to the rights Ecclesiastical proceed, the same Writ of the said Lord the King of Prohibition to him thereof to the contrary directed and delivered in any thing notwithstanding, &c.

Upon the Statute of 2 E. 6. for barren & heath ground. See the Statute in full.

T 12. *Ja. Rot.* *Brownlow Ang. ff.* Be it remembered, that the 13 day of July, that same term before the Justice of the Bench, here came *H C* of *L* in the County of *Syeoman*, by *C* his Attorney, and giveth the Court here to understand, That whereas by a certain Act of Parliament of the Lord late King of England, the 6. at *Westm.* in the County of *Middlesex*, the 4 day of November an. *Reg.* 2 held among other things it was enacted and provided by the authority of the same Parliament, that all barren woods or waste grounds, other than such which were discharged from payment of tythes, by act of Parliament, which before that time were barren and paid no tythes by reason of their barrenness, and which then were, or from thence afterwards, should be improved and converted into arable lands or meadow from thence after the end and term of seven years next after such improvement justly ended and determined should pay tythes for corn and hay growing upon the same, any thing in the same act to the contrary notwithstanding: a by the same act, amongst other things, it more fully appeareth: And whereas also one *R P* the first day of October, an. *Angl.* 4. and before was possessed of ten acres of land with the appurtenances, called and known by the name of *H* within the Parish of *L* aforesaid, in the County aforesaid, and the ends, limits, and tytheable places of the same Parish: which said ten acres of land, with the appurtenances, the same first day of October, an. 4. aforesaid, and the time of the making of the said act aforesaid: and also from the time whereof the memory of man then before was not, were sterile waste lands: and by the whole time paid no tythes by reason of their sterility: and also whereas the same *R P* of the same ten acres of land, with the appurtenances in form aforesaid, being possessed the same first day of October, an. 4. aforesaid the said ten acres of barren land at his own charges, improved and converted into arable land; and the same ten acres of land with the appurtenances, after such improvement, and within seven years then next following, to wit, by the space of three years now last elapsed held: and whereas also in the same Statute in the Parliament of the said late King *Ed.* 6. at *Westm.* aforesaid, the said fourth day of November, an. 2. aforesaid held, amongst other things it was enacted by the authority of the same Parliament, that no person shall be sued or otherwise compelled to render, give or pay any tythes, for any Mannors, Lands, Tenements or Hereditaments, which by the Laws and Statutes of this Realm of England, or by any privilege or prescription have not been charged with the payment of any such tythes or which were discharged by any real composition: as in the same act, amongst other things is more fully contained: and whereas such business or pleas for tythes, against the torm and effect of the Statute of the Lord the King of England, demanded; and the cognizance of the same pleas do specially belong and appertain to the same Lord the King, now, and his Regal Crown and Dignity: and by the Laws of the Land of this Realm of England, in the Temporal Courts of the said Lord the King upon record, and not in any wise in the Court Christian ought to be tried, determined or discussed and always hitherto ought and were accustomed. Notwithstanding one *K* Farmer of the Rectory of the Parish Church of *L* aforesaid, as he avers, not ignorant of the premises, intending not onely the same *H C* against the due form of the Law of the Kingdom of the said Lord the King of England, anduly to vex, oppress and weary, but also the Lord the King now his

Crown

Crown and Dignity to disinherite, and the cognizance of the plea which specially belongeth and appertaineth to draw to another examen of the Court Christian the same *H* in the Court Christian before *G W* Barchellor of Divinity, &c. of and for the subtraction and not payment of the tythes of wheat in and upon the same ten acres of land, within seven years next after the same improvement and conversion of the same ten acres of land, from barren and wasteground, into arable land in form aforesaid converted, to wit, in the year of our Lord, 1612, 1613, growing, coming and renewing, late drew into plea: and the same *H* by occasion of the premises, into the Court Christian aforesaid, before the said Spiritual Judge, to appear and answer the same *I* of and in the premises aforesaid, unjustly constrained: whereas in truth the same ten acres of land before the same improvement and conversion of the same into arable land by the same *R P* as is aforesaid made, paid no tythes by reason of the barrenness of the same: and whereas in truth by vigour of the same statute, the same ten acres of land by the space of seven years next after the same improvement and conversion of the same into arable land, in form aforesaid, made from the payment of any tythes of corn in and upon the same ten acres of land, during the same 7 years growing coming or renewing, were and ought to be discharged and acquitted. And although the same matter of discharge of the payment of the same tythes by a Jury of the Countrey, or other wise by the due course of the Common Law of the said Lord the King of England, ought to be tryed, and doth not belong to the Ecclesiastical Court: and also, although the same *H* the stat. aforesaid, and other the premises above expressed, in person answered in the Court Christian aforesaid before the said spiritual Iudge, and oftentimes pleaded and alledged: and the same by such sufficient and legal testimony offered to prove; as by the Law of this Realm of England he was held in that case: Notwithstanding the same spiritual Iudge to admit or receive such allegations and proofs altogether refused, and yet doth refuse: and the same *I R* the said *H* by definitive sentence of the same Court Christian, of and in the premises to condemn, and to compel him to pay the same tythes to him in the said Court Christian demanded, by his whole strength endeavoureth, and from day to day doth labour in contempt of the said Lord the King, now and of the same *H* damage, prejudice, impoverishment, and manifest grievance, and against the Law and custom of the said Lord the King now of England; and also against the form and effect of the statute aforesaid: and this he is ready to verifie, whereupon the same *H* humbly imploereth the assistance and munificence of the Court of the said Lord the King now, and present remedy, and a Writ of the said Lord the King now of Prohibition, to be directed to the said spiritual Judge, or other competent Iudge in this behalf, in form of Law, to prohibit them and every of them that they further hold nor, nor any one of them hold any plea of the premises before them depending, in the same Court Christian, nor for any thing touching or concerning them: and it is granted him, &c.

To *Iac. Rot. 3673. Brownlow, James* by the Grace, &c. *H H* to every one of his Counsellors, Attorneys and Solicitors, and to each of them Greeting, *I B* hath shewed to us, that whereas by the Law of our Realm of England, that all assumptions and promises made, and to be made, by the Laws and statutes of our Realm of England, and no otherwise ought, and were accustomed to be tryed determined and discussed, and whereas the same *H*. minding the same *I. B.* against the due form of the Common Law of this Realm of England unduely and without right, to vex, oppress, and weary, and also the Common-Law of this our Realm of England of right belonging to our Subjects to derogate & obstruct, & to subvert the due course of Law, such a day Anno 9. the same *I.* before the Masters of Requests, for certain assumptions by the same *I.* to be made to you supposed

A Prohibition
to the Court
of Requests.

to appear before the same Masters of Requests, of and upon the Premises, and to you thereof, contrary to the Law and Custome of our Realm of England, to answer hath unjustly constrained: and although the same *I. B.* the same matter by him above alledged before the said Masters of Requests, in discharge of the same Premises, hath often pleaded and offered the same by inevitable Truth and Testimony to prove; Nevertheless, the same Masters of Requests would not admit of that Plea and Allegation, but altogether refused, and yet notwithstanding the same plea, allegation and proofes aforesaid, the same *I. B.* of and in the Premises aforesaid, by the definitive sentence of the said Masters of Requests, to condemne with thy whole strength, indevoureth, and from day to day laboureth, in contempt of us and the damage prejudice impoverishment and manifest greivance of the same *I.* and against the Law of our Realm of England: whereupon the same *I.* humbly imploring the assistance and munificence of our Court of Common Bench, prayeth remedy to him in this behalf, to be used, and therefore we prohibit you and every of you, firmly injoyning, that you nor any of you, any thing in the said cause, in any thing touching the Premises, presume to attempt before the said Masters of Requests which to the damage or prejudice of the same *I. B.* and contempt of us, may in any thing happen witness *I. Coke July, 10.*

T 6. *Jac. rot.* 2733. a Prohibition directed to the high Commissioners in case of defamation of an Ecclesiastical person. for Warren.

P 6. *Jac. rot.* 1943. Prohibition for *W.* upon *wreacum Maris.*

T 6. *Jac. rot.* 1219. Prohibition for that tithes were demanded of three ancient Fulling Mills.

Quare impedit.

Advouſon in
groſs by por-
ners.

T 2 H. 8 Rot. 315. Buck. ff. W. Bishop of Lincoln was summoned to answer D G lit. and R S lit. of a Plea that he together with H G Chj. and I S Clerk permit them to present a fit person to the Church, of C which is vacant and belongeth to their gift, &c. And whereupon the same D and R by J H their Attorney say, that whereas the same David; And one M. his wife; And the same R & one W his wife were seized of the advouſon of the Church aforesaid as in groſs by themselves in their demesne as of fee in the rights of the same M & W and so being thereof seized, the Church aforesaid being vacant, presented R S their Clerk, who at the presentation of the same D & M & W was admitted & instituted in the same in the time Peace. in the time of H late B. of E. the 7 after the Conquest, and the same D & M had issue between them one E & the same W afterwards dyed, after the death of which said M & P the same D & R kept themselves in the advouſon aforesaid, & were thereof seized as in their free hold as tenants thereof by the courtesy of E. And being so thereof seized the same Church became afterwards vacant by the death of the same R S & yet is vacant, & so that reason it belongeth to the same Plaintiffs to present a fit person at the present to the same Church; And the same B together, &c. them unjustly hindereth, &c. whereupon, &c.

And the same Bishop by F B his Attorney cometh, &c. And saith that the same Church is within his Dioces of Lincoln; And that he clayms nothing, &c.

Judgement a-
gainst the
Bishop.

And the same Plaintiffs say that the same Bishop claymeth nothing in the Church aforesaid, nor in the advouſon of the same, unless the admission, institution & induction &c. prayeth judgement and Dr. Ep. &c. Therefore it is con-
sidered

nered that the said Plaintiff recover against the said Bishop his presentation to the Church aforesaid, And that he have a writ to the Bishop, that notwithstanding the reclaim of the same Bishop to the presentation of the same Plaintiff to the Church aforesaid, he admit of a fit person, &c. And let execution thereof be done, for that the same Plea against the same H & I is determined, &c. as it appeareth in the same Roll, &c. the same Plaintiff, by A B their Attorneys offered themselves the 4. day against the same H & I to gether &c. of the same Plea; And they came not; And of the same Hen. the Sheriff now returneth, that he is distrained by his Chattels to the value of 12. d. And issues 12. d. and bailed by I F and R S. Wherefore they in mercy &c. And of the same I S the Sheriff, now returneth that he is dead, Wherefore no Proces nor any other thing he further made against him, &c. And it is further considered, that the said Plaintiffs recovery against the same H & I his presentation to the Church aforesaid; And that they have a writ to the Bishop that notwithstanding the reclaim of the said H & I at the presentation of the same Plaintiff he admit of a fit person to the Church aforesaid, & the said H & I in mercy, &c.

Excutio fiat.

Against one a
distrains a
gainst the o
ther that he is
dead.

P 31 & 32 H 8 Rot. 516. ff. W P Esq; and C D were summoned to answer W D Bt. and E his wife of a Plea that they permit them and one B now deceased, which said B was otherwise summoned &c. to follow together &c. hath not prosecuted his writ aforesaid whereupon it was then considered by the Court that the same W D & E should follow alone, &c. and without, &c. to present a fit person to the Church of C which is vacant and belongeth to their gift, &c. and whereupon, &c.

Summons.

S Glouce. ff. M Bishop of Landaven and I B Clerk were summoned to answer W H Bt. of a Plea that they permit him to present a fit person to the Priory of St. John Baptist &c. which is vacant and belongeth to his gift &c. and whereupon the same W by J J. his Attorneys saith, that whereas he of late was and yet is seised of the Castle of Chepstow with the appurtenances in the parishes of South Wal nere adjoining to the same County of Gloucester, unto which the Priory aforesaid belongeth in his demesne as of fee, which said Priory within the same Parishes likewise is and so there of seised to the same Priory being vacant presented one R ger E. his Clarke, who at the presentation of the same Walter was admitted and instituted in the same, in the time of peace in the time of the Lord the King now and afterwards the same Priory was by the resignation of the same R ger and yet is void and for that reason at the present it belongeth to the same R ger to present a fit person to the same Priory yet being void, and the same Bishop and J. B. him unjustly hinder &c. whereupon he saith he is the worse &c.

Of an advow
son in the
Marches of
Wales.

Resignation.

Sheriff ff. R. Bishop of Menevend I P Clerke T W Esquire I P Clerke and I G Chaplain were summoned to answer David the Prior of I of a Plea that they permit him to present a fit person to the Church of I which is void, and belongeth to his gift, &c. And whereupon the same Prior by C W his Attorneys saith that one I H late Prior of the Priory aforesaid, predecessor of the said late Prior was seised of the advowson of the said Church of Hut de uno greff by himself as in fee and right, in the right of the same Priory, and which said Church is in Wales, And that the same County of Mer. in which the said Original writ was obtained, is in the next County in England, adjoining to the same Church of H. And the same Prior unto the same Church so being vacant presented one I B his Clerke, who at the presentation of the same late Prior was admitted, and instituted in the same in the time of Peace in the time of Ed. late King of England the fourth after the Conquest, And afterwards the same late Prior died, after whose death the

Otherwise of
an advowson
in the
Marches
of Wales.

same now Prior into the Priory of the Priory aforesaid was in due manner elected and brought; And afterwards the same Church was vacant by the death of the same I B and yet is vacant, &c.

Creation of a Prior.

Advouſon in groſſe.

Advouſon assigned by the heirs of the husband for the dower of the wife.

The tenant in dower gains the next avouſance.

Averment of the life of the Tenant in dower.

Lincoln ff. 10. Bishop of Lincoln E M and E B Clerke were summoned to answer W R of a Plea that they permit him to present a fit Parson in the Church of St J Baptist in S which is void, and belongeth to his gift &c. And whereupon the same W by Anthony Irly his Attorney saith that one I Goldsmith Gent. was seized of the Advouſon of the Church aforesaid, as de univ. et al. by himself as in fee and right, and being so thereof seized to the same Church being vacant presented one I W his Clerke, who at the presentation of the same I was admitted and instituted in the same in the time of Peace, in the time of H 7. after the Conquest. And the same I G of the same advouſon, and of 1 mel. and 10. acres of land with the appurtenances in G and in the County aforesaid in his demesne as of fee being seized, the same I took to wife E B, and afterwards of such his estate therein of the same advouſon, and of the tenements aforesaid with the appurtenances by Protestation dyed seized, after whose death that advouſon, and the tenements aforesaid, with the appurtenances descended to C and E as Daughters and heirs of the same I G whereby the same C and E were seized of the advouſon aforesaid, as in fee and right, and into the tenements aforesaid with the appurtenances entered and were thereof seized in their demesne as of fee; and being so thereof seized the same C and E at aforesaid assigned to the same E late wife of the same I G the advouſon aforesaid amongst other things to hold to her for terme of her life in the name of her dower to her having of all the Lands, Tenements which were of the same I G during the espousals between the same I G the said late wife of the same I G celebrated, by which the same E was seized of the same advouſon as in groſſe by her self as of free-hold, and being so thereof seized the 20 day of May an. R. 16. at S aforesaid by her certain writing gave and granted to J P and J H the first and next presentation unto the Church aforesaid, to hold to them for one and the next turn onely by pretext of which said gift and grant the same I and J were of the same advouſon with the appurtenances possessed; and being so thereof possessed the Church aforesaid became vacant, by the death of the same J P the same E then wife of the said J G then surviving and being in full life, whereby the same T W and J H unto the same Church so being vacant presented one T their Clerk to so at the presentation of the same T and J was admitted and instituted in the same in the time of Peace. In the time of the said late King; and afterwards the same late wife of the same J G died, after whose death the same C took to husband one J R, and had issue between them the same W R; and afterwards the same J R dyed after whose death the same C took to husband one W L and the same E sister of the same C took to husband one G S and had issue between them one E S and afterwards the same G dyed, after whose death the same E sister of the same C took to husband one W. B. by which the same W. L. & E. W. B. & E. were seized of the Advouſon aforesaid as in groſſe by themselves as in fee and right, in the right of the same C. & E. & they being so thereof seized the same Church became void by the death of the same T. W. by which the same W. L. & R. B. in the right of the same C. & E. sister &c. unto the same Church so being vacant presented one E. W. their Clerk who at the presentation of the said W. & W. was admitted and instituted in the same in the time of peace, in the time of the Q. that now is, and afterwards the same W. & C. W. B. & E. his wife died seized of their state aforesaid of the advouſon aforesaid seized after whose death the advouſon aforesaid descended to one W. R. as Son & heir of the said E. & to the said E S daughter of the said E sister &c. as daughter & heir of the said E. by which the said P. R. & E. S. were seized of the advouſon aforesaid as

as in fee & right, to wit, the same W. in his own right. and the same B. & E. his wife in the right of the same E. and they being so thereof seized the same Church became vacant by the death of the same E. W. and yet as vacant, and because the same W. R. B. & E. his wife could not agree between themselves of and upon the presentation to the Church aforesaid: Therefore to the same W. R. Son of the said C. eldest Son of the same I. G. for the present time it becometh to as in his first turne to present a fit person to the same Church, & the same Bishop E. & M. & W. him unjustly hinder, whereupon he saith &c.

And the same Bishop E. and P. by R. G. their Attorney come &c. And the same Bishop claims nothing &c. And the same E. & W. demur in Law.

The Plaintiff hath judgment against the Bishop & Dre, Epo. but ceaseth execution untill the demurrer be argued.

And the same Arch-Bishop and William protest that the same Grace the same first day of Aprill Anno 12. abovesaid did not present to the same Arch-Bishop the same D. ap. R. to the Church aforesaid, protesting also that the same David ap. R. at the time of the presentation aforesaid, supposed to be done was not a fit Clerke as the same Grace hath above alledged for plea, the same Arch-Bishop and W. say that the same Grace after the said vacancy of the Church aforesaid by the death of the same G. H. & within the same 6. months then next following, to wit, the 16. th. day of Aprill Anno. E. R. 12. abovesaid the said Archbishop being then Bishop of London and Ordinary of the Church aforesaid, presented to the same Church so being vacant, the said D. ap. R. which said D. ap. R. at the time of the said presentation was a person insufficient in learning, and not capable of a Benefice, by protest whereof the same Archbishop then refused to admit the same D into the same Church, after which said presentation of the same D to the Church aforesaid by the same Grace made, and after the same refusal in forme aforesaid and within the said 6 months next after the vacancy of the same Church by the death of the same G. H. to wit 7 Maii An. 12. abovesaid, at little P aforesaid the same Archbishop gave notice to the same Grace that the same D was not a fit Clerk and capable of a Benefice, and that the same Grace might present another fit person to the same Church unto the same Archbishop, and that the same Grace after the same notice by the same Archbishop given and within the said 6 months after the vacancy of the same Church after the death of the same G. H. did not present to the same Archbishop any other fit person to the same Church by which the said Archb. then B. of L. and Ordinary of the same Church after the same 6 months in forme aforesaid elapsed conferred the same Church so vacant unto the same W. S. his Clerke, and caused him to be instituted and inducted in the same as to him it was lawfull, whereupon he prayeth Judgment if the said Grace her action, &c.

The eldest Son presents in the first turne, for that the partners cannot agree to present joyarily.

The Bishop and incumbent joyne in plea.

Insufficiency of the incumbent pleaded in bar.

PPPPP

M.

Quare Impedit.

M 15. and 16 E. rot. 1941. H. 6. E. rot. 646. litre pleas.
The Plaintiff replies that the said David was a fit person and capable of a benefice &c. and that no notice was given by the Arch. Bishop prout &c. and issue was joyned thereupon.

Advowson of
the third part
of the Church
&c.

First turne.

Secord turne.

Third turne.

T 13. E. rot. D. ff I. C. & J. P. Clerks were summoned to answer A. D. Eiq; of a plea that they together with W. B. of E permit the same A. to present a fit person to the Church of A R otherwise & A which is hold and belongeth to his gift &c. And whereupon the same A by I. H. his Attorney saith that whereas one A. B. was seized of the thirde part of the mannour of A. R. alias R. A with the appurtenances in the County aforesaid unto which the advowson of the thirde part of the Church aforesaid, to wit to present to the same Church as to every thirde turne being vacant then appertained, and yet appertained, in his demesne as of fee and that one R. H. was seized of another thirde part of the same mannour with the appurtenances whereunto the advowson of a thirde part of the Church aforesaid to wit, to present in like manner unto the same Church every other thirde turne being vacant then appertained and yet appertained; and that one F. P. was seized of another thirde part of the same mannour with the appurtenances whereunto the advowson of the 3 part of the Church aforesaid to wit, to present in like manner unto the same Church being vacant every thirde turne then appertained in his demesne as of fee & the same R. B. of the said 3 part of the mannour aforesaid unto which &c. in form aforesaid being seized unto the same Church then being vacant in his turn presented one A. R. his Clerk, who at the presentation of the same R. B. was admitted and instituted in the same in the time of peace in the time of H. 7. after the Conquest, & the same R. H. unto the Church aforesaid being vacant in his turne presented one I. A. his Clerke, who at the presentation of the same R. H. was admitted & instituted in the same in the time of peace in the time of the said late King, and the same F. P. of his said 3. part of the mannour aforesaid with the appurtenances unto which &c. in form aforesaid being seized the same Church being vacant by the death of the same I. A. by which the same F. P. unto the same Church so being vacant in his turn presented one R. P. his Clerke, who at the presentation of the same F. P. was admitted and instituted in the same in the time of peace in the time of H. 8. after the conquest. and the same R. B. of the same 3. part of the mannour aforesaid with the appurtenances unto which &c. in form aforesaid being seized at A. R. aforesaid died of such his estate therein seized, after whose death the same thirde part of the mannour aforesaid with the appurtenances unto which &c. unto the same R. B. hapning descended to one I. B. as Son & heire of the same R. whereby the same I. B. into the same 3. part of the mannour aforesaid with the appurtenances unto which &c. entred and was thereof seized in his demesne as of fee, & being so thereof seized the same I. B. by protestation dyed of such his estate thereof seized after whose death the same 3. part of the mannour aforesaid with the appurtenances unto which &c. to the same J. B. hapning descended to one I. B. as Son & heire of the same I. B. whereby the same I. B. into the same thirde part of the mannour aforesaid with the appurtenances unto which &c. entred & was thereof seized in his demesne as of fee, and being so thereof seized, the same I. B. by protestation dyed of such his estate thereof seized after whose death the same thirde part of the mannour aforesaid with the appurtenances unto which &c. unto the same I. B. hapning descended to the same A. B. as Son and heire of the same I. B. whereby

whereby the same A. B. into the same third part of the mannor aforesaid, with the appurtenances unto which &c. entred and was thereof seized in his demesne as of fee, and ye being so thereof seized the same Church became vacant by the death of the same R. P. and yet is vacant, and by that reason unto the same A. B. for the present it belongeth to present a fit person to the same Church, and the same I. C. and R. P. together &c. him unjustly hinder, whereupon he saith he is the worse and hath damage to the value of 100. and thereupon he byingeth Suit &c.

M. 7. H. 6. rot. 5 24. Count in Abbouson in grosse, and the Defendant cometh &c. and saith that he is Parson of the Church aforesaid by the presentation of T. M. Knight Grandfather &c. impersonate, incumbent in the same, and saith that the same T. M. now Plaintiff Action now because he saith that the said J. F. never had any thing in the abbouson aforesaid &c. but saith that well and true it is that the same T. C. Knight Grandfather &c. was seized as in grosse by himself as in fee and right, and unto the same Church being vacant presented one W. W. his Clerke, who at his presentation was admitted and instituted in the same in the time of peace in the time of the late King, and afterwards the same Church was vacant by the death of the said W. in the life time of the said T. M. Knight Grandfather &c. whereby the same T. M. Grandfather &c. unto the same Church presented the same W. who at his presentation was admitted, instituted and inducted in the same, in the time of peace, in the time of the late King in the life time of the Grandfather, and the same T. M. the Grandfather &c. afterwards died, after whose death the abbouson aforesaid descended to the same T. M. Knight the Plaintiff as Cozen and heire of the same T. M. the Grandfather &c. in form above alleged and saith that he is Parson of the Church aforesaid of the abbouson of the same T. M. Knight now Plaintiff being imprisoned in the same in the life time of the said T. M. Knight Grandfather &c. at his presentation in form as aforesaid, without this, that the same Church was vacant after the death of the same T. M. the Grandfather &c. and this he is ready to verifie, whereupon he prayeth Judgement if the same Tho. M. now Plaintiff his Action aforesaid against him in this case ought to maintain &c. And the same T. M. now Plaintiff saith that *prec u li no*, because he saith that one M. T. had issue the same W. begotten and boyn of the body of the same M. and one I. without any espousalls and that never any matrimony between the same I. and M. nor between the same M. nor any other celebrated, and that the same W. hath no Apostolicall dispensation, nor ever had to have, accept or receive any ecclesiasticall benefice with cure or not with cure, and saith that the said T. M. Knight knowing the same W. to be begotten and boyn out of any espousall, and that never any matrimony was had between the same I. and M. nor between the same M. or any other celebrated, And that the same W. by that occasion of the Law of the holy Church was and is disabled & incapable to accept of any benefice Ecclesiasticall with cure or any possession thereof without Apostolicall dispensation by the same W. in this behalf had, and knowing moreover that the same W. then had no Apostolicall dispensation in this behalf, nor never had any, And that the same Church was beneficed with Ecclesiasticall cure, presented the same W. to the same Church, they had A being then Bishop of Norwich Ordinary of the same place, And the same A likewise knowing the same W. to be so begotten and boyn, & that no matrimony was ever had between the same I. & M. nor between the same M. and any other celebrated; And that the same W. by that occasion by the Law of the holy Church was & is a person unable and not capable, to accept of any benefice, or any possession thereof without Apostolicall dispensation by the same W. in this behalf had, knowing

The Defendant makes a title by the presentation of the Grandfather.

The Plaintiff saith that the Defendant is a bastard and never had any Apostolicall dispensation to have any benefice &c.

Quare impedit.

mozeober the same W then had no Apostolical dispensation in this behalf, nor ever had any, and the same Church to be a beneficed with Ecclesiastical care admitted the same W by colour of the same presentation unto the same Church in which case the same W a person capable and able to accept of the Benefice aforesaid, or any possession thereof, or a person impersonate, and incumbent, in the same Church or in possession thereof is not by the Law of the holy Church so that the same Church by the death of the same VV is yet vacant, whereby unto the same T M now Plaintiff as Coten and Heir of the same T M the Grandfather, &c. unto the same Church at the present it belongeth to present; And the same W together, &c. unjustly and under the same T M now Plaintiff to present a fit person to the same Church; And this, &c. whereupon they prayeth judgement & br. Bp. &c.

And the same VV not acknowledging any thing by the same T M now Plaintiff above alleadged to be true, saith that neither the said T M Bt. at the time wherein he presented the same VV to the same Church knew neither the said late Bp. at the time wherein he admitted the same VV to the said Church, nor knew that the same VV by the Law of the new Church, was unable and not capable to accept of any beneficed Cure, nor did the same T M know neither the said A late Bp. know that the said VV had no Apostolical dispensation in this behalf; as the same T M now Plaintiff hath above alleadged, and that he is ready to verify if he can make issue of the plea, and unto the other matter by the same T M now Plaintiff above alleadged, the same VV hath no need, nor by the Law of the land is held to answer, whereupon he prayeth judgement and that the same T M now Plaintiff may be barred from having his action, &c.

And the same T M now plaintiff saith, that the said T M Grandfather, &c. at the time in which he presented the same VV to the same Church knew; and the same A late Bishop at the time wherein he admitted the same VV to the Church aforesaid, did know that the same VV by the Law of the holy Church was a person unable and not capable to accept of any benefice with cure; and that the same T M Grandfather knew, and the same A late Bishop likewise knew the same V had no Apostolical dispensation in this behalf; as the same T M now plaintiff hath above alleadged; and this he prayeth may be inquired of by the Country; & the same VV likewise; & also the same T M now plaintiff saith, that the said VV was begotten and bozne, and to the same Church by the same T M the Grandfather presented; & by the same A late Bp. admitted at L in the County aforesaid; and prayeth a writ to the Sheriff, to cause to come here 12. &c. to try that issue, &c. Therefore the Sheriff is commanded that he cause to come here in O. S. Hill. 12. &c. of the neighbourhood of L. by whom, &c. And who neither, &c. to recognize, &c. because as well, &c.

P 14 Eliz. Rot. 1047. H. S. H. and P N Clerke were summoned to answer to the Lady the Queen of a plea, that they together with VVilliam Bishop of Exeter permitt the same Lady the Queen, to present a fit person to the Church of L. which is vacant and belongeth to her gift, by reason of the custody of the land and heir of G L deceased, who held of the Sister of the said Lady the now Queen, Mary Queen of England, in Capite in the hands of the said Lady the now Queen being, &c. And whereupon Gilbert Garret Attorney generall of the said Lady the Queen, who for the same Lady the Queen followeth for the same Lady the Queen saith, that one Henry late Earl of Bridgewater was seized of the Mannour of V with the appurtenances in the County aforesaid, whereunto the adbouison of the Church aforesaid doth belong in his demesne as of fee; and being so thereof seized, to the same Church being vacant and presented one H his Clerke, who at the presentation of the said late Earl was admitted and instituted in the same in the time of Peace, in the time of H 8 And the same Earl of the Mannour aforesaid with the appurtenances unto which, &c. in forme aforesaid being seized of the same Mannour with the appurtenances in fee, Ed. late Duke of Suffolk to hold to him and his heirs for ever; By vertue of which giftment the same late Duke was seized of the Mannour aforesaid with the appurtenances unto which &c. in his demesne as of fee; & being so thereof seized, the said late Duke dyed, of such his estate therein seized, after whose death by a certain Act in Parliament of the Lord Edward late King of England the first here to wit at Westminster in the County of Middlesex an. &c. held, amongst other things it was enacted by the authority of the same Parliament, that all Mannours, Lands, Tenements, and Hereditaments, &c. (As in the act) as by the same act fully appeareth; and the same G G further saith that the Mannour aforesaid, with the appurtenances unto which, &c. by the same act were not given or limited to the heirs of the said late Duke of the body of the same Anne his wife begotten. By pretext of which act, of Parliament, the same late King was seized of the Mannour aforesaid with the appurtenances unto which &c. in his demesne as of fee; and being so thereof seized, the same late King dyed of such his estate thereof seized without heirs of his body begotten, after whose death the Mannour aforesaid with the appurtenances unto which, &c. descended to the Lady Mary late Queen of England, as Sister and heir of the late King Edward the first, whereby the same late Queen was seized of the Mannour aforesaid, with the appurtenances unto which, &c. in her demesne as of fee, and being so thereof seized the same late Queen the twenty day of October an. 1. &c. by her Letters Patents under her great Seal of England sealed, bearing date the same day and year, gave and granted to the said the Mannour aforesaid with the appurtenances unto which, &c. and the adbouison aforesaid amongst other things, to have and to hold to her heirs for ever, to be held of the said late Queen her heirs and successors in Capite, by the service of the twentieth part of one Knights fee; By vertue of which Letters Patents the same was seized of the Mannour aforesaid with the appurtenances unto which, &c. in her demesne as of fee; and being so thereof seized the same tenth day of May an. &c. Ph. and Mary late King and Queen of England, the fourth and fifth at V aforesaid made her last will and Testament in writing, and by the same gave and bequeathed two parts of the Mannour aforesaid, with the appurtenances unto which, &c. unto one R B Knight, to hold to him and his heirs for ever, and afterwards the same at V aforesaid dyed of the Mannour aforesaid

For the Queen by reason of the custody of the heir and land to which, &c.

The lands given to the King by Sentence.

Descent from Ed 6 to Queen Mary.

Grant of the Mannour from Queen Mary to the Marchioness.

Descent of the
third part of
the Mannour.

Seizure of bod-
dy and lands
of the heir in-
to the King
and Queens
lands.

The Govern-
ment of the
Realm de-
scends to Q.
Elizabeth.

foresaid with the appurtenances unto which &c. in forme aforesaid seized, without heir of her body begotten, after whose death the third part of the Mannour aforesaid with the appurtenances unto which, &c. descended to one J B as Cozen and heir of the same C I. to wit as son and heir of K B late wife of R B, &c. the same J Baker at the time of the death of the same G L being within the age of twenty one years, and afterwards by a certain Inquisition Indented taken at N in the County of D the two and twentieth day of Jan. &c. P. and Mury the first and sixt, before N H Esquire, then Escheator of the said King and Queen in the same County of D. by virtue of the writ of the said King and Queen, of diem clausi extremum after the death of the same G L to the same Escheator directed by the oath of 12. &c. it was found amongst other things that the same G L was seized of the Mannour aforesaid with the appurtenances unto which, &c. (as in the Inquisition, &c.) as by the same into the Chancery of the same late King and Queen P and Mury returned, and there remayning amongst other things moze fully appeareth by which the same King and Queen, aswell the third part of the Mannour aforesaid with the appurtenances unto which, &c. as the body of the same I B into their hands took and seized; and were possessed of the same, and being so thereof possessed, the same late Queen dyed thereof possessed without heir of her body begotten, after whose death the Govern-ment of the Realm of England, descended to the same Lady the Queen that now is, as Sister and heir of the said late Queen, whereby the said Lady the Queen, by reason of her Regall prerogative was aswell of the third part of the Mannour aforesaid, with the appurtenances unto which, &c. as of the body of the same I B possessed, during the minority of the same J B, and the same Lady the Queen that now is being so thereof possessed the Church aforesaid became vacant by the death of the same H. H. and yet is vacant, and so that reason it belongeth to the said Lady the now Queen at this time to present a fit person to the Church aforesaid, and the same G H V M together &c. the said Lady the Queen that now is unjustly hindered, &c. to the damage of the said Lady the Queen of one hundred pound, and this the same Gilbert Gerrard for the same Lady the Queen is ready to verify, &c.

first day of May, Anno Eliz. Regin. 40. at C. aforesaid, by his certain writing of Release, which the same VV. with the Seal of the same VV. M. sealed, here in Court brought, the date hereof is the same day and year, remitted and released to the same W. D. & his heirs, his whole state, right and demands, of and in the Rectory aforesaid, with the appurtenances, unto which, &c. in M. (amongst other things,) whereby the said VV. D. was solely seised of the Rectory aforesaid, with the appurtenances unto which, &c. in his Demesne, as of fee; And the same VV. D. further saith, that by a certain Act in Parliament of the said late King Henry the 8. at Westminster aforesaid, in the year of his reign 21. held, among the rest, it was enacted and established by the authority of the same Parl. that if any person or persons that hath or have one Benefice, with the cure of Souls, being of the yearly value of 8 l. or above, shall accept or take, or should accept or take any other Benefice, with the cure of Souls; and shall or should be instituted and inducted into the possession of the same, that then, and immediately after such possession so thereof had, the first Benefice shall be adjudged void in Law; And that then it should be lawful for any Patron having the Advowson of the same, to present one or other person; And that the person so presented should have the profits of the same in such manner and form, as if the Incumbent had died, or resigned any liberty, union, or other dispensation to the contrary thereof contained in any thing notwithstanding; as in the same Act is more fully contained; And the same VV. D. further saith, that the same benefice of the Vicarage aforesaid, at the same time wherein the same H. Hill, as aforesaid, was admitted and instituted into the same, and always afterwards, hitherto, was, and yet is a Benefice, with the cure of Souls, and of the yearly value of 8 l. and more, to wit, of the yearly value of 63 l. and that the same Lawrence having the said Benefice of the Vicarage of the Church aforesaid, after the making of the said Act, and before the day of the purchasing of the original writ of the same VV. Duke, to wit, the first day of June, An. 38. Eliz. at S. in the County of O. another Benefice with the cure of Souls, to wit, the Rectory of S. in the same County of Oxon. accepted and took, and into the possession of the same Church of S. was admitted, instituted and inducted, by pretext of which said acceptance, and taking of the same Benefice of the said Rectory of S. and the admission, institution and induction of the same Lawrence unto the possession of the same, no fit person being presented unto the same Vicarage of the Church of C. aforesaid, so being vacant within the same time, by the Patron Ordinary or Metropolitan of the same Vicarage, whereby the same Lady the Queen that now is, by reason of her majesties prerogative by laps of time to her in form aforesaid devolved, unto the same Vicarage of the Church of C. so being void, presented the same W. King her Clerk, who at the presentation of the said Lady the Queen before the day of the purchasing of the original writ of the same VV. D. to wit, the 17 day of June Anno 40. Eliz. aforesaid, was admitted, instituted, and inducted in the same, in the time of peace, in the time of the Lady the Queen that now is. And the same VV. D. further saith, that by a certain other Act in the Parliament, the said Lady the Queen, that now is, at Westminster aforesaid, the 2 day of April Anno Regin. 13. held, amongst other things it was enacted by the authority of the same Parliament, that every person, after the end of the same Session of that Parliament, to be admitted to a Benefice, with the cure of Souls, unless he within two months after his induction, doth publicly read the Articles of religion, &c. (as the words of the Statute are) or in the same Statute is more fully contained; And the same W. D. further saith, that the same M.

King,

King after the end of the same Parliament, Anno 13. abovesaid made, to wit the same 27 day of June, An. Eliz. 40. abovesaid, unto the same Benefice of the Vicarage of the Church of C. aforesaid, to which Church belongeth the cure of Souls, as aforesaid, being admitted, instituted, and inducted in the same, did not publickly read in the same Church of C. aforesaid, whereof as aforesaid, he had the cure of Souls, in the time of Common Prayer there, the same Articles within two moneths next after his induction into the same Vicarage, whereby the same M. for that default, by vertue of that Act made in the 13 year abovesaid was in fact immediately deprived, and the same Vicarage was vacant, by the deprivation of the same M. K. and yet is void. And for that reason unto the same VV. D. a fit person to the same Vicarage; at the present it belongeth to present. And the same Bishop and M. him unjustly hinder, whereupon, &c.

P. 14. Ja. 10. 2117. **S.** William Bishop of Exon, G. T. Gent. 10. T. Gent. and A. S. Clerk, were summoned to answer the 12 Covenants of the hereditaments and goods of the Church of Credon; otherwile Kiron, which is vacant, and belongeth to their gift, &c. And whereupon the same 12 Gobernors, by H. N. their Attorney, say, that whereas they were seised of the Advowson of the Vicarage of the Church of C. otherwile K. as in grosse by themselves, as in law and right, and being so thereof seised unto the same Vicarage then being vacant, presented one W. C. their Clerk, who at the presentation of the same Gobernors was admitted and instituted in the same in the time of peace in the time of the Lady Eliz. late Queen of England. And the same Gobernors of the same Advowson of the same Vicarage in forin aforesaid being seised, the same Vicarage was afterwards vacant by the death of the same W. Cooke, and yet is vacant; And for that reason to the same Gobernors a fit person unto the Vicarage aforesaid at the present it appertaineth to present; And the same Bishop, Geo. I. and A. the same Gobernors unjustly hinder, whereupon, &c. dam. 100 l. &c.

And the same Bishop, G. I. and A. by I. Martin their Attorney, come and defend, &c. And saith that he is not informed by the same Bishop, G. I. and A. his Clients, to give any answer for the same Bishop, G. I. and A. to the same Gobernors in the action aforesaid; And nothing else thereto saith, whereby the same Gobernors remain against the same Bishop, G. I. and A. thereof, without defence. Wherefore it is considered, that the same Gobernors recover against the said Bishop, Geo. I. and A. their presentation to the Vicarage aforesaid; And that they have a writ to Geo. Archbishop of Canterbury, of whole England Primate and Metropolitan, for that the same Bishop is a party and named in the same writ, that notwithstanding the refusal of the same Bishop, G. I. and A. a fit person to the Vicarage aforesaid at the presentation of the same Gobernors, he admit. And the same Bishop, G. I. and A. in meet, &c. and because it is not known, whether the Vicarage aforesaid be full, or not, or how much time of 6 moneths hath passed since the same Vicarage began to be void, nor how much the same Vicarage is worth by the year, according to the true value of the same, The Sheriff is commanded, that by the oath of honest and lawful men of the County aforesaid, he diligently enquire if the same Vicarage be full or not; And if it be full, then at whose presentation, or of whom it is full; And if 6 moneths have passed from the time wherein the same Vicarage became last vacant; And how much the same Vicarage is worth by the year, according to the true value thereof; And the Inquisition which, &c. he make known here; 15 Trin. under

Not informed
in a 2. impediment.

Mercy.

under the seal, &c. And seals, &c. And in the interim let execution cease de brevi Ep. habend. &c.

Non proces at-
ter lib. in Q.
impedit.

¶ Apparlance unto Oct. Hill. At which day here came the same Bishop, and R. by T. S. their Attorney, and offered themselves the 4. day against the same E. of the same plea: And he being solemnly called came not; And he was sought, &c. Therefore it is considered, that the same E. and R. goe thereof without day, &c. And the same E. in mercy, &c. And the same Bishop and R. pray their damages by the Statute, according to the value of the moety of the Church aforesaid, for that 6 moneths are not elapsed. Therefore it is commanded the Sheriff, that he diligently inquire how much the same Church is worth by the year in all issues. And the Inquisition, &c. such a day under the seal, &c. And the seals, &c.

Non proces a-
gainst the
King in a Q.
impedit.

¶ As the said E. Cooke Knight, Attorney General of the Lord the King, who brought of the said Lord the King, for the same Lord the King against the same B. T. and A. of the plea aforesaid, being present here in Court, and being asked thereof, whether he will further prosecute the same writ for the same Lord the King against the same Bishop, F. and A. or not, saith that he will not further prosecute the writ aforesaid. Therefore it is considered, that the same R. go thereof without day, &c. the right reserved of the Lord the King at another time, if, &c.

Inrollm. of a
Q. impedit in
the Com. B.
with an in-
tervention that a
Ne admittas
may be grant-
ed.

¶ Be it remembered, that the Justices of the Lord the King here, the 28. day of Novemb. that same term have delivered here in Court to E. C. Deputy Sheriff of the County of Glouc. a certain writ close of the said Lord the King that now is, directed to the same Sheriff to be executed in form of law; which said writ the same Deputy here in Court opened, the tenor of which writ followeth in these words, Charles, &c.

Warrant from
the Attorney
Gen. to pray
judgement &
execution af-
ter verdict in
Qu. impedit.

¶ I O. Banks Knight, Attorney General of the Lord the King, for the same Lord the King prayeth judgement, upon a verdict given before the Justices of the said Lord the King at the Assizes in the County of Cornwall for the same Lord the King, between the same Lord the King Plaintiff, and the same Bishop and Jo. Dodd Defendants, in a plea of Quare impedit, And also execution of the same judgement for the said Lord the King to be adjudged, &c.

Qu. impedit
brought by
tenant of
Courtse of
an Advowson
In grosse a-
gainst divers.

T. 10. H. 8. rot. 561. ff. T. S. Knight, and I. F. late wife of C. D. were summoned to answer H. le Scroope of a plea, that they, together with T. D. and the same C. permit him to present a fit person to the Church of F. which is vacant, and belongeth to his gift, &c. And now here at this day, to wit, 15 Trin. came as well the said Henry, by I. Martin his Attorney, as the same T. S. M. and I. by T. T. their Attorney; And hereupon the same H. saith, that after 15 Pas. last past, at which day the same plaint was continued here from thence, until tres Trin. then next following, before which day, the plaint aforesaid was adjourned by writ of the Lord the King, de Com. adjournamento unto Oxford in the County of Oxford, until the same 8 sancte Trin. At which day the same plea was adjourned there by another writ of the said Lord the King, de Com. adjournamento, unto Westminster aforesaid until this day, to wit 15. sancte Trin. then next following. And before the same 15 sancte Trin. to wit, 21 day of May last past, the same Th. D. died, to wit, at Westminster in the county of Midd. And because the same T. S. M. and I. doe not gainsay this, therefore let no proces, nor any other thing against the said T. D. be further

Mort de un
Defendr. after
the last conti-
nuance.

ther done, &c. Whereupon the same Henry declaring against the same T. S. M. and W. upon the same writ saith, that one T. S. was seised of the Advowson of the Church aforesaid, in grosse by himself, as of fee and right; And so being thereof seised, unto the same Church, being vacant, presented one G. S. his Clerk, who at the presentation of the same T. S. was admitted, and instituted in the same in the time of peace, in the time of H. 7. after the Conquest. And afterwards the same Tho. S. of such his estate of the Advowson aforesaid died seised; after whose death, the Advowson aforesaid descended to one A. as daughter and heir of the same Tho. by which the same A. was seised of the Advowson aforesaid, as in fee and right; And being so thereof seised, took to husband the same Henry; By pretext whereof, the same Henry and Alice were seised of the Advowson aforesaid, as of fee and right; And being so thereof seised, the same H. and A. had issue between them one Eliz. and afterwards the same Alice died; And the same Henry her survived, and kept himself within in the same Advowson, and was thereof solely seised, as of freehold, as tenant thereof by the Courtesie of England; And afterwards the same Church became vacant by the death of the same G. and yet is vacant; And for that reason it belongeth to the same Henry to present a fit person to the same Church; and the same T. S. M. and W. him unjustly hinder, whereupon, &c.

M. 15 H. 8. rot. 436. Kane. ff. John Coppynger Esquire; and W. D. Clerk, in mercy for more defaults, &c.

The same John and William and John Bishop of Rochester, were summoned to answer John Raynford Knight, and W. his wife, of a plea, that they suffer the same John R. to present a fit person to the Church of N. which is vacant; and doth belong to their gift, &c. And whereupon the same John and W. by I. M. their Attorney say, that one T. C. Knight, was seised of the Mannor of N. in the County aforesaid, whereunto the Advowson of the Church aforesaid doth belong, in his demesne as of fee. And being so thereof seised, gave the Mannor aforesaid unto which &c. to one R. P. Esquire, to hold to him and the heirs of his body lawfully begotten, the licence of the Lord Henry, late King of England the second after the Conquest; of whom the Mannor aforesaid, with the appurtenances, unto which &c. were held in Chief, hereupon being obtained; By vertue of which license and gift, the same Reginald was thereof seised in his demesne as of fee-tail; And of such his estate therein by protestation died seised; after whose death the Mannor aforesaid, with the appurtenances, unto which, &c. descended to one I. P. Esq; as Cozen and heir of the same R. P. by which the same I. the son of I. into the Mannor aforesaid, with the appurtenances, unto which, &c. entered, and was thereof seised in his demesne as of fee-tail. And being so thereof seised, to the Church aforesaid, then void, presented one T. H. his Clerk, who at the presentation of the same I. son of I. was admitted and instituted in the same in the time of peace in the time of H. late King of England, the 7. after the conquest. And afterwards the same I. son of I. of his estate aforesaid; of the Mannor aforesaid, with the appurtenances, unto which &c. died seised. After whose death the Mannor aforesaid, with the appurtenances, unto which, &c. descended to one H. P. as son and heir of the same I. P. son of I. whereby the same H. into the same Mannor, with the appurtenances entered, and was of the same Mannor with the appurtenances, unto which &c. seised in his demesne as of fee-tail. And afterwards, by a certain Inquisition Indented, taken at Maidstone in the County aforesaid the 3. of Feb. Anno 12 H. 7. after the Conquest, before H. L. Esquire, then Es-

Quare impedit brought by husband and wife upon a gift in tail made to the Ancestors of the wife, and three dieth seised, her heir within age, & it is found by Office, and by brief diem clausit extremum, & that the King was seised, who by his Letters Patents grants the custody. Gift in tail of the lands held in Chief by licence from the King.

Inquisition by writ of *diem clausit extremum*.

cheator of the said late King in the County aforesaid, by vertue of a writ of the said late King of *diem clausit extremum*, to the same Escheator directed by the oath of 32nd *et*. it was found that the same I P. son of I. was seised in his demesne as of fee of the Mannor of W. in the County aforesaid amongst other things; And being so thereof seised, by his certain Deed to the Jury aforesaid, upon the taking of the Inquisition aforesaid shewed in evidence the date whereof is at Westminster aforesaid the 3 day of Aug. Anno 4. infeoffed one A. W. to have and to hold the Mannor aforesaid with the appurtenances, unto which, *et*. to the same A. and his assigns, to the use and term of life of Eliz. wife of Io. P. the sonne, the reversion thereof after the death of the same Eliz. to the same I P. and his heirs, be- longing and reserved. By vertue of which Feoffment, the same Adrian was seised of the Mannor aforesaid, with the appurtenances, in her demesne, as of free hold. And that the same Mannor of W. was then held of the said late King in Chief. And further, by the same Inquisition it was found, *et*. as in the Inquisition, *et*. As by the Inquisition into the Chancery of the said Lord the King returned, and there remaining more fully appeareth. By pretext whereof, the said late King, the same H. P. into his possession took and seised, and into the same Mannor of N. with the appurtenances, unto which, *et*. entred, and was of the same possessed; And being so thereof possessed, by his Letters Patents, the date whereof is at Westm. quint. Martii Anno 10. gave and granted to one Edw. P. Knight, the Custody of the same Mannor of N. with the appurtenances, unto which, *et*. amongst other things by the names, *et*. And so (as in the Letters Patents) as in the same Letters Patents amongst other things is more fully contained. By pretext of which grant, the same Edw. was of the same Mannor of N. with the appurtenances, unto which, *et*. possessed, and being so thereof possessed, the same Church of N. was vacant by the death of the same Tho. by which the same Edw. unto the same Church so being vacant, presented one Simon G. his Clerk, who at the presentation of the same Edw. was admitted and instituted in the same, in the time of peace, in the time of the Lord late King; And the same H. P. afterwards of such his estate, of and in the same Mannor of N. with the appurtenances unto which, *et*. died without heir of his body begotten; after whose death, the Mannor aforesaid, with the appurtenances, unto which, *et*. descended to the same VV. as Sister and heir of the said Henry, and Cozen and heir of the said Reginald of his body, *et*. to wit, as of the same I P. son of John, son of Reginald; And afterwards the Lord the King that now is, by his Letters Patents, the date whereof is at Westminster the 8. day of Feb. Anno 11. granted and gave license to the same I F. and VV. Vinifred. by the names, *et*. (recite the Letters Patents) as in the same Letters Patents to the Court here shewn (amongst other things) is more fully contained, by which the same I R. and VV. into the aforesaid Mannor of N. with the appurtenances, unto which, *et*. entred and was thereof seised in their demesne as of fee-sayl, in the right of the same VV. And afterwards the same Church was vacant by the death of the same S. and yet is vacant; And for that reason, it belongeth to the same Io. and VV. to present a fit person to the Church aforesaid; And the same Bishop, Io. C. and VV. claimeth nothing but the admission, *et*. And prayeth judgment *Si Actio*, *et*. And the same I. C. and VV. D. say, that the same I. R. and VV. *Actio non*, because they say that the same Henry P. was seised of the same Mannor of N. with the appurtenances, unto which, *et*. in his demesne as of fee. And being so thereof seised, the 10 day of March, Anno 8 Regis nunc at N. aforesaid in the County aforesaid, by his certain Writing, which the same I. C. and VV. with the Seal of the same H.

sealed,

Plaintiff, and I. his wife Deforcants, of the yearly rent of 6 l. issuing out of one Messuage, &c. with the appurtenances in N. whereof a plea of Covenant was summoned between them in the same Court, to wit, that the same R. and I. acknowledged the same rent, with the appurtenances to be the right of the same I. as that which the same I. hath of the gift of the same R. And that they have remised and quit claimed from the same R. and I. and their heirs, to the said I. and his heirs for ever; And besides the same R. and I. have granted for themselves and the heirs of the said Iob, that they will warrant the same rent, with the appurtenances, to the same Iohn and his heirs, against the same R. and I. and against the heirs of the same Iob for ever, whereupon the same I. H. and A. pray that the same I. C. may declare and shew to the Court here what rent the same I. claimeth to have of the same I. H. and A. issuing out of the tenements aforesaid, with the appurtenances; And the same I. C. saith that he claimeth to have of the same Ioyce a certain Annual rent of 60 l. yearly issuing out of the tenements aforesaid, with the appurtenances, because he saith, that long before the issuing out of the same writ one T. B. deceased, and the same Ioyce then his wife, in the right of the same Ioyce, and the same F. H. and A. in the right of the same A. were seised of the tenements aforesaid, with the appurtenances whereof, &c. in his Demesne as of fee; And they being so thereof seised in the morrow of the holy Trinity, Anno Regis, &c. 7. levied a certain fine in the Court of the said Lord the King of the Common Bench here, to wit, at Westminster, in the County of Middlesex, before E. C. &c. between the same T. B. and the same Ioyce, then his wife, and certain W. O. and D. his wife Deforcants of the tenements aforesaid, with the appurtenances, whereof, &c. by the names of one Messuage, one Garden, &c. with the appurtenances in M. whereof a plea of Covenant was summoned between them in the same Court, to wit, that the same R. and I. W. and D. acknowledged the tenements aforesaid with the appurtenances, to be the right of the same I. as the same which the same T. and I. have of the gift of the same R. and I. W. and D. and the same they have remised and quit claimed from the same R. and I. and W. and D. and their heirs, to the same T. and I. and the heirs of the same Ioyce for ever; And besides the same R. and I. have granted for them, and their heirs of the same I. that they will warrant to the same T. and I. and the heirs of the same I. for ever, the tenements aforesaid, with the appurtenances, against the same R. and I. and the heirs of the same I. for ever; And further the same W. and D. have granted for themselves, and the heirs of the said D. that they will warrant to the same I. and T. and to the heirs of the same I. the tenements aforesaid, with the appurtenances, against the same VV. and D. and the heirs of the same VV. for ever; And for that acknowledgement remise, quit claim, warrant, fine, and concord, the same T. and I. have granted to the same R. and I. a certain yearly rent of 60 l. of lawfull money of England, issuing out of the same tenements, with the appurtenances; And the same to them rendered in the same Court, to have and receive the said annual rent of 60 l. to the same R. and I. and the heirs of the same I. at the Feasts of St. Mich. the Archangel, and the Annunciation of the blessed Virgin Mary, by equal portions yearly to be paid for ever; And if it should happen the same yearly rent of 60 l. to be in arrear in part, or in the whole, that then it should be very lawfull to the same R. and I. and the heirs of the same I. into the tenements aforesaid, with the appurtenances, to enter and distress, and the distresses so there taken and had, lawfully to chase, carry, or lead away, and the same to retain, until that the same Annual rent of 60 l. with the arrearages of the same, if there be

be any, should be fully satisfied and paid, as by the record of the same fine in the same Court of the Lord the King here, to wit, at Westminster aforesaid remaining, more fully appeareth; And the same I. C. farther saith, that the same I. B. and I. and H. F. and A. of the tenements aforesaid, with the appurtenances whereof, &c. in form aforesaid being seised on the same morrow of the holy Trinity, Anno 7. abovesaid levied a certain other fine in the same Court of the said Lord the King before E. C. &c. between the same H. F. and A. his wife Plaintiffs; and the same R. VV. and I. his wife, and W. O. and D. his wife, Deforceants of the tenements aforesaid, with the appurtenances, whereof, &c. by the same names in the same other fine above contained; whereof a plea of Covenant was summoned between them, in the same Court, to wit, that the same R. and I. and W. and D. acknowledged the tenements aforesaid; with the appurtenances, to be the right of the same A. as the same which the said H. and A. had of the said R. and I. and W. and D. And the same remised and quit claimed of the same R. and I. and W. and D. and their heirs to the same H. and A. and to the heirs of the same A. for ever: And besides the same R. & I. granted for themselves & the heirs of I. that they would warrant to the same H. and A. and the heirs of the same A. the tenements aforesaid, with the appurtenances, against the same W. and D. and the heirs of the same D. for ever: And for the same acknowledgment remise, quit claim, warranty, and fine, and concord, the same H. and A. granted to the same R. and I. a certain annual rent of 60 s. of lawfull money of England, issuing out of the tenements aforesaid, with the appurtenances; and the same rendered to them in the same Court, to have and receive the same Annual rent of 60 s. to the same R. and I. and to the heirs of the same I. at the Feasts of St. Mich. the Archangel, and the annunciation of the blessed Virgin Mary by equal portions yearly to be paid for ever; And if it shall happen the same yearly rent of 60 s. to be in arrear, in part, or in whole, after any Feast of the same Feasts, wherein, as aforesaid it ought to be paid, not paid by the space of 6 weeks that then it shall be very lawfull to the same R. and I. and the heirs of the same I. into the tenements aforesaid, with the appurtenances, to enter and distress, and the distresses so there taken and had, lawfully to take, chase, and drive away, and the same to retain until the same yearly rent of 60 s. with the arrerages of the same (if there be any) should be fully satisfied and paid, as by the Record of the same fine in the same Court of the said Lord the King here, to wit, at Westminster aforesaid, likewise remaining, more fully appeareth; by vertue of which said several fines the same T. B. and I. were seised of the one moiety of the tenements aforesaid, with the appurtenances in their Demesne, as of fee, And the same H. and A. were likewise seised of the other moiety of the tenements aforesaid, with the appurtenances in their Demesne as of fee, And the same R. VV. and I. were seised as well of the said annual rent of 60 s. to the same R. and I. by the same T. B. & Ioyce, as of the other annual rent of 60 s. to the same R. & I. by the same H. & A. in form aforesaid granted, issuing out of the tenements aforesaid, with the appurtenances in their Demesne as of fee, the same T. B. and Ioyce of one moiety of the tenements aforesaid, with the appurtenances in, seised in form as aforesaid, the same T. at N. aforesaid died, and the same Ioyce him survived, and kept herself within the same moiety of the tenements aforesaid, with the appurtenances whereof, &c. And was therein solely seised by right of lordship, &c. And the same A. being so thereof seised, the same H. and A. of the other moiety of the same tenements, with the appurtenances in form aforesaid being seised. And also the same R. VV. and I. of the same several yearly rents aforesaid, with the appurtenances in form aforesaid being seised, the same R. and I. by the note of the same

fine here in Court shewed, granted to the same *I C.* the same rent, as by the note of the said fine is above supposed; and prayeth, that the same *Joyce* of the same annual rent, of 60 s. by her, and the same *T B.* her husband, and the same *H.* and *A.* of the same annual rent of 60 s. by the same *H.* and *A.* to the same *R. W.* and *I.* issuing out of the tenements aforesaid, with the appurtenances whereof, &c. granted by themselves, may attorn to the same *I C.* And hereupon it is said to the same Attorney of the same *I. H.* and *A.* that for the same *I. H.* and *A.* to the same *I C.* in the plaint aforesaid, he answer, and the same Attorney saith, that he is not informed, &c. therefore it is considered, that the same *Joyce*, of the said annual rent of 60 s. and the same *H.* and *A.* of the same annual rent of 60 s. by them, as abovesaid, granted, themselves Attorn to the same *I C.* and the same *I. H.* and *A.* in mercy, because thereof, before they Attorned not, &c.

Mercy.

H. 34. *Eliz. rot. 238. Brownlow, Oxon L.* against *H.* And so being thereof sealed, the same *W.* the 7th. day of *March, Anno 30 Elizabeth*, at *G.* by his certain Indenture of Bargain and Sale, between the same *W.* of the one part, and the same *R.* of the other part made, which other part, with the seal of the same *W.* sealed, the same *R.* bringeth here into the Court, whose date is the same day and year in the Court of the said Lady the Queen, of the Common Bench here, to wit, at *Westminster*, in *Easter Term Anno &c. 30* abovesaid, before the then Justices of the said Lady the Queen, of the Bench aforesaid, as the deed of the same *W.* acknowledged, and within six moneths then next following, to wit, in the same *Easter Term*, in due manner, in the same Court, upon Record, inrolled according to the form of the Statute in this case made, and provided, for and in consideration, &c.

M. 7. & 8. *Eliz. rot. 1342. & H. 14. 7a. rot. 465.* The inrolment of a deed of bargain, and sale in the Countrey, before the *Custos Rotulorum*, and Clerk of the peace, well pleaded.

Attornment
in a *quem redditum reddit*.

P. Af. 1. *H. 7. rot. 218.* And the same Defendant doth well acknowledge the same rent to issue out of the Mannors aforesaid, with the appurtenances, and say, that they are ready to attorn themselves thereof to the said Plaintiff; and themselves to him here in Court attorn, &c. therefore the fine be ingrossed, &c.

H. 31. *H. 6. rot. 339. Quem redditum reddit. Spec. writ.*

Entry of a refac. to acknowledge
quid iuris clamat in a fine.
Tarde retorned.
A refac. awarded.

M. 3. *J. rot. 504. Brownlow, Otherwise*, as it appeareth, *T. 3. Jac. rot. 2409.* it is thus contained. *Oxon ss.* It was commanded the Sheriff, that he should cause to come here at this day, to wit, in the morrow of the holy Trinity, *T W.* and *D.* his wife, to acknowledge what right they claim in 1 mess, 1 garden, 1 orchard, 200 acres of land, 20 acres of meadow, 100 acres of pasture, 150 acres of wood, and 200 acres of furze and heath, with the appurtenances in *E. G.* and *W.* in the County aforesaid, which *D F.* widow, in the Court of the said Lord the King, here granted to *G S.* Esq; and *F S.* Knight, by fine thereof between them made: and now here at this day, came the same *G.* and *F.* by *T G.* their Attorney, and the Sheriff, to wit, *G T.* Esq. now retorneth, that the writ thereof to him delivered, was so late, that for the shortnesse of time, he could not execute it: there-

Therefore, as before, the Sheriff is commanded, that he cause to come here
tres Trin. the same *T. D.* to acknowledge, in form aforesaid, &c. At which
 day, here came as well the same *G. and F.* by their Attorney aforesaid, as
 the said *T. and D.* by *W. W.* their Attorney. And hereupon the same *G.*
 and *F.* pray, that the same *T. and D.* may attorn to them thereof, &c.
 And the same *T. and D.* pray the hearing of the same writ, and it read un-
 to them, &c. and also pray the hearing the note of the same fine, whereup-
 on the same writ issued. And to them it is read in these words. Between
G. S. Esq. and *F. S.* Knight, Plaintiffs, and *D. F.* widow, defendant, of
 1 mess. 1 garden, 1 orchard, 200 acres of land, 20 acres of meadow, 100
 acres of pasture, 120 acres of wood, and 200 acres of furze, and heath, with
 the appurtenances, in *E. G.* and *W.* whereof a plea of Covenant was sum-
 moned in the same Court of the said Lord the King here, to wit, that the
 same *Dorothy* acknowledged the tenements aforesaid, with the appurtenan-
 ces, to be the right of the same *G.* and granted for her self and her heires,
 that the same tenements, with the appurtenances, which *T. W.* and *D.* his
 wife hold for the life of the same *D.* in the right of the same *D.* of the inhe-
 ritage of the same *D.* the day in which this concord was made. And which
 after the decease of the same *D.* unto the same *Dorothy* and her heires,
 ought to revert, and after the decease of the said *D.* wholly to remain to
 the same *G. and F.* and the heires of the same *G.* to be held of the chief
 Lords of the fee, by the services which appertain to the same tenements for
 ever. And the same *Dor.* and her heires warrant to the same *G. F.* and the
 heires of the same *G.* the tenements aforesaid, with the appurtenances, as
 aforesaid, against the same *D.* and her heires for ever: and *per hac, &c.*
 Which being read, and heard, the same *T. and D.* reserving to themselves
 all, and every advantages and exceptions, as well to the writ, as to the de-
 claration aforesaid, pray license thereof to imparle here untill in *Oct. Mi-*
chaelis, and have it, &c. The same day is given to the same *G. and F.* here,
 &c. and now here at this day, come as well the same *G. and F.* as the same
T. and D. by their Attorneys aforesaid: and hereupon the same *G. and F.*
 as before, pray, that the same *T. and D.* themselves of the tenements aforesaid,
 with the appurtenances, may attorn, &c. Whereupon the same *T. and*
D. say, that long before the same *Dor.* had any thing in the tenements aforesaid,
 with the appurtenances, one *W. H.* Esquire, was seised of the tene-
 ments aforesaid, with the appurtenances, in his demesne, as of fee: and be-
 ing so thereof seised, before the levying of the said fine, to wit, the 28 day
 of February, Anno *Eliz. Reg.* 34. by his certain Indenture, between the
 same *W.* of the one part, and one *T. M.* and the same *D.* then his wife, and
 one *K. M.* daughter of the same *T. M.* and *D.* of the other part made;
 which other part, with the seal of the same *W.* sealed, the same *T. and D.*
 here in Court bring, whose date is the same day and year demised to the
 same *T. M.* and the said *D.* and the same *K.* the tenements aforesaid, with
 the appurtenances, to have and to hold, to the same *T. and D.* and their assigns,
 for, and during the lives of the said *T. M.* and *D.* and the longest liver of
 them: and after the decease of the same *T. M.* and *D.* to the same *K.*
 for the time of 90 years, if the same *K.* should live so long. By vertue of
 which demise, the same *T. M.* and *D.* were seised of the tenements aforesaid,
 with the appurtenances in their demesne, as of free tenement, for term
 of the lives of the same *T. M.* and *D.* and the longest liver of them: The re-
 mainder thereof, after the decease of the same *T. M.* and *D.* to the same *K.*
 for term of 90 years, if the same *K.* should live so long, in form aforesaid
 belonging. And the same *T. and D.* being so thereof seised, the remainder
 thereof, to the same *R. M.* in form aforesaid belonging. And the same *W.*
H. of the reversion thereof, as in fee and right, in form aforesaid, being sei-

The Defen-
 dant appears
 by Attorney.
 Plaintiff prays
 that the De-
 fendant may
 attorn.
 Hearing of
 the writ.
 Hearing of
 the note of
 the fine.

Special im-
 parlance.

The Defen-
 dants say that
 before the Co-
 mitor had any
 thing, or the
 fine levied, i.
 D. was seised,
 and made a
 lease to the
 Defendants
 for life, the re-
 mainder ex-
 pectant for
 years. And
 afterwards by
 fine the rever-
 sion was gran-
 ted to the Co-
 mitor, who at-
 torneth and
 confesseth that
 they ought to
 attorn, *Salvo*
Stat. &c.
 Lease for two
 lives, remain-
 der for years,
 &c.
 By Indenture
 Entry of Les-
 sees for life.

Descent cast
in reversion.

Fine levied.

Attornment
upon the fine.

sed, the same *W H.* afterwards, and before the levying of the same fine, to wit, the first day of *December*, *Anno Reg. Eliz. 41.* at *G.* aforesaid, died, of such his estate thereof seised; after whose death, the reversion of the tenements aforesaid, with the appurtenances, after the death of the same *T M.* and *D.* and after the term of the same yeares ended, ought to have descended to one *G H.* then Esquire, now Knight, as son and heir of the same *W.* whereby the same *G.* was seised of the reversion of the tenements aforesaid, with the appurtenances, as of fee, and right. And the same *G.* being so thereof seised, and the same *T M.* and *D.* of the tenements aforesaid, being seised, levied a certain fyne in the Court of the said Lady the Queen here, to wit, at *Westminster*, in the County of *Midd.* before *E A. T W.* *T O.* and *G K.* then Justices of the said Lady the Queen of the Bench here, and other faithfull people of the said Lady the Queen, then and there present, between the same *Do.* by the name of *D F.* widow, plaintiff, and one *K H.* widow, and the same *G.* and *H.* this his wife by the name of *K H.* widow, *G H.* Esquire, and *K.* his wife, deforceants, &c. of the tenements aforesaid, with the appurtenances, by the names of the Mannor of *E.* with with the appurtenances, and 12 mess. 12 gardens, 12 Orchards, 500 acres of land, 20 acres of meadow, 200 acres of pasture, 200 acres of wood, and 200 acres of furze and heath, 20 s. rent, and the rent of one pound of pepper, and free fishing in the water of *T.* with the appurtenances in *E. G.* *G. S. A.* and *W.* whereof a plea of Covenant was Summoned in the same Court of the said Lady the Queen, to wit, that the same *K. H.* widow, *G. H.* and *K.* his wife acknowledged the same Mannor, tenements, rent, and fishing aforesaid, with the appurtenances, to be the right of the same *D.* as those which the same *D.* then had of the gift of the same *K. G.* and *K.* And the same remised and quit claimed from them the said *K. G.* and *K.* and their heirs, to the same *D.* and her heirs for ever. And besides the same *K. H.* widow, *G.* and *K.* his wife, granted for themselves, and the heirs of the same *G.* that they would warrant to the same *D.* and her heirs, the Mannor, tenements, rent, and fishing aforesaid, with the appurtenances against the same *G.* & his heirs, & against the heirs of the same *W. H.* Grandfather of the same *G.* and against the heirs of the same *VV. H.* great Grandfather of the same *G.* and against the heirs of *O. H.* Esq; Father of the same *VV. H.* Great-grandfather for ever. And for the same acknowledgement, remise, quit claim, warrant, fine and concord, the same *D.* gave to the said *K. G.* and *K.* 40 l. Sterling, as by the same fine in the Court of the said Lord the King remaining more fully appeareth; which said fine in form aforesaid levied and had, was levied to the use of the same *Do.* and her heirs for ever; unto which grant, by the fine aforesaid, in form aforesaid made, the same *T. M.* in his life-time, and *Dionis* afterwards, to wit, the 25. day of March, Anno 41 Eliz. above- said, at *E.* aforesaid, then of the tenements aforesaid, with the appurtenances being seised; the Remainder for term of years as before said to the same *K. M.* Attorned themselves, and agreed with the same *Do.* by vertue of which said fine, and Attornment aforesaid, and also by force of the Statute in the Parliament of the Lord Hen. late King of England the 8. at Westmin. in the County of *Midd.* Anno regni, &c. 27. de usus in possessionem transferrend. held, made and provided, the same *Dorothy* was seised of the reversion of the tenements aforesaid, with the appurtenances, as of fee and right; And the same *D.* so being thereof seised, and the same *T. M.* and *Dio.* of the tenements aforesaid, with the appurtenances, in form aforesaid being seised, the remainder thereof to the same *E M.* for term of years as aforesaid belonging, the same *T. M.* afterwards and before the levying of the same fine, to wit, the first day of April, An-

no, &c. 42. at E. aforesaid died of such her estate therein seised, and the same Dionis. survived him, and kept her self within the tenements aforesaid, with the appurtenances, and was therein solely seised in her demesne as of free tenement, for term of her life, by right of Survivorship, &c. The remainder thereof to the said K. M. for term of years aforesaid, remaining; And so being thereof seised, the same Dionisia afterwards, and before the levying of the same Fine; to wit, the first day of Septemb. Anno, &c. 43. at E. aforesaid, took to husband the same T. W. whereby the same T. W. and D. in the right of the same D. wers, and yet are seised of the tenements aforesaid, with the appurtenances, in their demesne as of free tenement for the term of the life of the said Dio. the remainder thereof to the same K. M. for term of years in form aforesaid belonging. And the same T. W. and D. say that they cannot gainsay the Action of the same G. and F. aforesaid, nor but that the same T. and D. the same G. and F. of the tenements aforesaid, with the appurtenances, reserving the estate and right of the same T. and D. for term of the life of the same Di. in the right of the same Dio. and to the same K. M. for term of years aforesaid thereof ought to Attozn, &c. Wherefore it is considered, that the same T. VV. and D. to the same G. and F. should Attozn, &c. And let them be distrained, that they be here in Crastino Martini to Attozn, &c. At which day, here came as well the same G. and F. by their Attozney aforesaid, as the same T. VV. and D. in their proper persons; And hereupon the same T. VV. and D. reserving the state and right of the same T. and D. for term of the life of the same D. in the right of the same D. and to the same K. M. for term of years, in form aforesaid, to the same G. and F. of the tenements aforesaid with the appurtenances, doe Attozn, &c. Wherefore it is considered, that the same Fine be ingrossed, &c.

Confession of the Attornment *Salvo Stat. &c.* The like Attornment *Salvo Stat. T. 1 & 2 P. and M. rot. 702.*

Judgement that the Defendants Attorn, &c. a *Disstringas* awarded to attorn, Tenants to Attorn *salvo Stat.* Judgem. that the fine be ingrossed.

T. 14. Ja. rot. 3467. Brownlow Berk ff. It was commanded the Sheriff that he should cause to come here at this day, to wit, in the morning of the Holy Trinity A. K. widow, to acknowledge what right she claimeth in 1 mess. 1 garden, 2 acres of land, 2 acres of meadow, and 3 acres of pasture, with the appurtenances in T. which R. W. in the Court of the said Lord the King here, granted to the same I. W. Esquire, by fine between them thereof made, &c. And now here at this day came as well the said I. W. by T. G. his Attozney, as the same A. by W. W. his Attozney; And hereupon the same I. W. prayeth, that the same A. may Attozn to him thereof, &c.

Quid juris Clamat.

And the same A. prayeth the hearing of the writ aforesaid; And it is read unto him, &c. And also prayeth the hearing of the note of the fine, whereupon that writ issued; And it is read unto him in these words, Between I. W. Esquire Plaintiff, and R. W. Deforciant, of 1 messuage, 1 garden, 5 acres of land, 5 acres of meadow and an half, and 10 acres of pasture, with the appurtenances in T. of which said tenements, with the appurtenances, the same A. holdeth the same 1 mess. 1 garden, 2 acres of land, 2 acres of meadow, and 3 acres and an half of pasture, for term of his life, whereof a plea of Covenant was summoned between them in the same Court, to wit, the same R. acknowledged the tenements aforesaid, with the appurtenances, to be the right of the same I. of which the same I. hath 3 acres and an half of meadow, and 6 acres and an half of pasture, of the gift of the same R. W. And the same remised and quit claimed for himself and his heirs to the same I. and his heirs for ever. And he granted for himself and his heirs, that 1 mess. 1 garden, 2 acres of land, 2 acres of meadow, and 3 acres and an half of pasture residue of the tenements

The Defend. appears by Attorney. Oyer of the note of the Fine.

Quid juris Clamat.

Not informed.
Judgm. that
the Defen-
dants Attorn.
Distringas a-
warded to
Attorn, &c.

aforesaid, with the appurtenances, which A. K. holdeth for term of her life of the inheritance of the same K. whereof their concord was made. And which after the decease of the same A. unto the same R. and his heirs ought to revert, after the decease of the same A. the whole remainder to the same I. and his heirs to hold, together with the same tenements which remain to him by the same Fine, of the Chief Lords of the Fee by the Services which belong to the same tenements for ever. And the same R. and his heirs warranteth to the same I. and his heirs the tenements aforesaid, with the appurtenances as aforesaid, against the same R. and his heirs for ever. And pro hac, &c. which being read and heard, the same Attorney of the same A. saith, that he is not informed by the same A. his Client, of any answer for the same A. to give in the plaint aforesaid; and nothing else therein saith, whereby the same I. remaineth against the same A. therein without defence. Wherefore it is considered, that the same A. to the same I. W. of the same 1 mess. 2 acres of land, 2 acres of meadow, and 3 acres and an half of pasture, with the appurtenances Attorn; And let him be distrained, that he be here in O.S. Sancti Mich. to Attorn, &c.

Quid juris Clamat.

Attornment
in *Quid juris*
Clamat in the
Country.
Ingressus fi-
nis.

T. 8. Eliz. rot. 1124. R. At which day here came the same E. by his Attorney aforesaid, and the same R. and Eliz. Attorned to him in the Country, &c. And prayeth that the fine thereof between them at their perils may be ingrossed, &c. Wherefore let the fine thereof at the peril of the same E. be ingrossed, &c. Such a ve fac. Hill. 15. Car. rot. 2523. Farmer.

T. 3. and 4 Ph. and Ma. rot. 804. Ponfate in *Quid juris Clamat*, M. 3. I. rot. 2116. cog. actionem in *quid juris Clamat*.

The Defen-
dant appears
by Attorn.

H. 44. Eliz. rot. Brownlow. Otherwise as it appeareth in H. 43 Eliz. rot. 808. It is thus contained, Salop ff. It was commanded the Sheriff, as more times it was by the Queen commanded the Sheriff that he should distrain W. W. by all the lands, &c. And that of the issue &c. so that he have his body here at this day, to wit, 15 Hill. to acknowledge what right he claimeth in the moiety of the third part of 12 mess. 4 tofts, 1 mill, 2 dove-houses, 12 gardens, 12 orchards, 100 acres of land, 14 acres of meadow, 100 acres of pasture, and 10 acres of wood, with the appurtenances, in C. A. R. H. W. G. H. H. and S. near M. C. in the County aforesaid, which R. M. Clerk, and A. his wife, in the Court of the said Lady the Queen here, to wit, at Westminster, granted to the same I. C. Cent. by fine thereof there between them made, &c. And now here at this day came as well the same I. C. by R. P. his Attorney, as the same W. W. by N. G. his Attorney; And hereupon the same I. C. prayeth, that the same W. W. may Attorn to him thereof, &c. And the same VV. prayeth the hearing of the same writ; And it is read unto him, &c. And also prayeth the hearing of the note of the fine whereupon the same writ issued; And it is read unto him in these words. Salop ff. between I. C. Cent. Plaintiff, and R. M. Clerk, and A. his wife Deforcants, of the moiety

moety of the third part, &c. as in the first parcel; whereof a plea of Covenant was summoned between them in the same Court, to wit, the same R. and A. acknowledged the same moety of the third part aforesaid with the appurtenances, to be the right of the same Iohn; And they granted for themselves, and the heirs of the same A. that the same moety of the third part aforesaid, with the appurtenances, which VV VV. held for term of his life of the inheritance of the same A. the day wherein this concord was made, and which after the decease of the same W. unto the said A. and her heirs ought to revert, and after the decease of the said W. wholly to remain to the same I. and his heirs for ever. to be held of the Chief Lords of the same Fee, by the services which belong to the same moety, with the appurtenances, for ever. And besides, the same R. and A. granted for themselves, and the heirs of the same A. that they would warrant to the same Iohn and his heirs the same moety, against themselves, and the heirs of the same A. for ever. Day Anno Eliz. now 40. And for this, &c. which being read and heard, the same VV. VV. referring to himself all and every advantages, exceptions and allegations, as well to the Writ as to the Declaration aforesaid, prayeth license thereof to impart here until 15 Pasch. And hath it, &c. And from thence it is continued until Hill. 44. And now here at this day came as well the said I. by his Attorney aforesaid, as the said W. in his proper person; And hereupon the same Iohn, as before prayeth, that the same W. to him of the moety aforesaid, with the appurtenances may Attorn, &c. And the same W. saith, that he, by virtue of the note aforesaid ought not to Attorn himself to the same J. because he saith, that long before the levying of the same fine, one R. G. was seised of the whole tenements aforesaid with the appurtenances in his Demesne, as of fee; And had issue of his body lawfully begotten, the same A. and certain Alice and Ia. and the same R. being so thereof seised, at R. aforesaid died, of such his estate thereof seised, after whose death the same tenements with the appurtenances descended to the same Alice, Anne and Iohn, as to the Daughters and heirs of the same R. whereby the same A. A. and I. into the tenements aforesaid, with the appurtenances entred, and were thereof seised in their Demesne, as of fee; And being so thereof seised, the same Alice took to Husband the same W. W. & the same Anne took to Husband one T. G. and the same Iohn took to Husband one H. O. by which the same VVill. and Alice, in the right of the same Alice, T. and Anne in the right of the same Anne, and H. and Ia. in the right of the same Ia. were seised of the tenements aforesaid, with the appurtenances in their Demesne, as of fee; and so being thereof seised, levied a certain fine thereof, in the Court of the Lady Eliz. late Queen, &c. here, to wit, at Westminster, in the morrow of the Ascension of our Lord, Anno, &c. 20. before I. D. R. M. R. M. and T. M. then Justices of the said Lady the Queen of the Common Bench here; And afterwards in the morrow of the holy Trinity, then next following, granted and recovered before the same Justices and other faithful people of the said Lady the Queen then and there present, between the same VV. and the said H. O. Plaintiffs, and the same T. G. and A. Defendants of the whole purport of the same Anne to the A. out of the tenements aforesaid, with the appurtenances, having by the name of the third part of 6 Messuages, 4 Cottages, 3 Barnes, 10 Gardens, 50 acres of land, 24 acres of Meadow, 50 acres of Pasture, 60 acres of wood, and 60 acres of furze and heath, with the appurtenances in the Parish of St. M. in the Towns of S. M. W. C. A. R. S. H. H. G. and C. into 3 parts to be divided, whereof a plea of Covenant was summoned between them in the same Court, to wit that the same T. and

M. 2 & 3 Eliz.
rot. 1321.
Judgment in
a Quid juris
Clamat. It is
considered,
that the same
W. S. for the
having of his
seisin of the te-
nements and
rent aforesaid
& pertin. a-
gainst the
same G. and I.
by occasion of
the claim and
plea aforesaid
forfeited, if
he will, may
prosecute. And
that if H. he
will the same
fine may be
ingrossed; And
the same G.
and I. in mer-
cy, &c.
com. fol. 209.

Fine levied,

A.

Quid iuris Clamat.

A. acknowledged the same third part with the appurtenances, to be the right of the same W. As the same which the said William and H. had of the gift of the same T. and Anne, and the same demised and quit claim-
 ed of the same T. and A. and the heirs of the same VV. and H. and the
 heirs of the same VV. for ever; And besides the same T. and A. grant-
 ed for themselves, and the heirs of the said Anne, that they will warrant
 the third part aforesaid, with the appurtenances, to the same VV. and H.
 and the heirs of the same VV. against the same T. and Anne, and the heirs
 of the same Anne for ever as by the Record of the fine aforesaid, here in
 Court remaining, more fully appeareth, which said fine in form afoze-
 said levied as to the one moiety of the third part of
 the tenements aforesaid, with the appurtenances in the fine aforesaid
 contained, to the use of the said H. O. and his heirs for ever; And as
 to another moiety of the same third part residue to the use of the same VV.
 VV. and his heirs for ever, by virtue of which said fine, and vigour of a
 certain Act in Parliament of the Lord Hen. late King of England the 8.
 at Westminster in the County of Middlesex, the 4 day of Febr. Anno, &c.
 27. de usibus in possessionem his ferend. held, made, and provided, and
 the same H. G. was seised of one moiety of the said 3 part of the tenements
 aforesaid, with the appurtenances in his Demesne, as of fee; and the
 same VV. VV. was, and yet is seised of one moiety of the said third part
 of the tenements aforesaid, with the appurtenances in his Demesne as of
 fee; And the same VV. was and yet is seised of one moiety of the said
 third of the tenements aforesaid, with the appurtenances in his Demesne,
 as of fee. And this he is ready to verifie, whereof he prayeth judgement if
 he, by virtue of the note of the same fine, himself to the same John ought
 to Attorn, &c.

M. 29 Eliz.
 rot. 47.

And the same John saith, that he by any thing in the same plea alleged
 from having the Attornment of the same VV. by virtue of the note a-
 fozesaid of the said moiety of the said third part ought not to be barred,
 because he saith, that well and true it is that the same R. G. was seised
 of the whole tenements aforesaid, with the appurtenances in his De-
 mesne, as of fee, and had issue of his body lawfully begotten the same A-
 lice and Iane, And that the same R. being so thereof seised of such his estate
 therein died seised, And that after the death of R. the said R. G. the tene-
 ments aforesaid, with the appurtenances, descended to the same Alice,
 Anne and Ioan, as daughters and heirs of the same R. whereby the same
 A. A. and I. into the tenements aforesaid, with the appurtenances en-
 tred, and were thereof seised in their Demesne, as of fee; and so be-
 ing thereof seised, the same Alice took to Husband the same VV. VV.
 and the same Anne took to Husband the same T. G. and the same Iane
 took to Husband the same H. O. whereby the same W. and Alice, in the
 right of the said Alice, and the same T. and Anne in the right of the same
 Anne, and the same H. and Iane in the right of the said Iane were seised of
 the tenements aforesaid, with the appurtenances in their Demesne, as of
 fee, and being so thereof seised, levied the said fine in the Court of the
 said Lady the Queen. now here, to wit, at Westminster aforesaid in the
 morrow of the Ascension of our Lord, Anno 20. abovesaid, (and so re-
 cte the whole plea, word for word,) as the same W. above in pleading
 hath alleged; But the said John further saith, that the same H. and Iane
 in the right of the same Iane, and the same W. and Alice, in the right of
 the same Alice, were seised of two parts of the residue of the tenements a-
 fozesaid, with the appurtenances in their Demesne, as of fee, and being
 so thereof seised, the same W. and A. had issue between them lawfully
 begotten one which said issue afterwards and before the levying of

of the last fine by the same R. and A. levied at C. aforesaid died without issue of their bodies begotten, and before the levying of the said last fine by the same R. M. and A. to the same John of the reversion of the moiety of the third of the tenements aforesaid, with the appurtenances, the same Alice of C. aforesaid, of such her estate therein died seised, and the same VV. survived her, and kept himself within the same third part of the same tenements, with the appurtenances, and was seised in his Demesne as of free tenement, for term of his life, as tenant thereof by the law of England, the reversion thereof, after the death of the same Alice to the same Anne and Jane, sisters and heirs of the same Alice belonging; By vertue whereof the same T. and A. in the right of the same Anne and H. and Jane in the right of the same Jane were of the said reversion of the said third part seised, as in fee and right in the Coparcenary, and being so thereof seised, the same T. G. afterwards, and before the levying of the said last fine, at C. aforesaid died, and the same Anne survived him, and afterwards, and before the levying of the same fine at C. aforesaid, took to her husband the said R. M. By vertue whereof the same R. and A. in the right of the same A. and H. and Jane in the right of the same I. were of the reversion of the said third part seised, as in fee and right in coparcenary; And they being so thereof seised, the fine aforesaid by the same R. and A. to the same Io. the same reversion of the said moiety of the said third part hapning to the same A. in form aforesaid levied, as by the note aforesaid is above supposed; And this he is ready to verifie, whereupon he prayeth judgement, and that the same VV. to him thereof Attozn, &c. whereupon the same VV. to resign to the Counterplea of the same John aforesaid, being solemnly called came not, but made default, whereby the same John remaineth against the said VV. without defence: Wherefore it is considered that the same VV. to the same John, of the same moiety of the third part aforesaid, with the appurtenances Attozn, &c. And the same VV. in mercy, &c. because before he attorned not; And the Sheriff is commanded that he distress the same W. by all his lands, &c. and that of the profits &c. so that he have his body here 15 Pas. to attorn to the same I. the said moiety of the third part aforesaid, with the appurtenances, And what, &c. the Sheriff make appear here at the same term, &c.

P. 30 Eliz. rot. 77. T. 30 Eliz. rot. 50. Among the pleas of Land, &c. Acknowledgement of the Action in a Quid juris Clamar; afterwards, to wit, such a day, VV. P. one of the Justices of the Lady the Queen of the Common Bench, delibered here in Court by his proper hands, a certain Acknowledgement of the Action aforesaid before him, such a day at his house, &c. made to be here in Court inrolled upon Record in these words, We it remembred, that such a day, &c. before W. P. one of the Justices, &c. came E. P. widow, in her proper person, And saith, that she cannot gainsay, but that she claimeth to hold the tenements aforesaid, with the appurtenances for term of her life, as by the note of the fine aforesaid is above supposed; And that she is ready to Attozn thereof to the same T. And Attozns her self thereof to him, &c. And makes thereof Fealty, &c. And hereupon the same P. present here in Court in his proper person, prayeth, that the fine thereof be ingrossed, &c. Wherefore let the fine thereof be ingrossed, &c.

P. 10 H. 4. rot. 239. Northampt. ss. Quid juris Clamat brought by tenant for life without impeachment of waste upon the grant of the Concessor (salvis omnibus advantagiis sibi per prædictam Cartam indentat concess.) the same I. H. Knight, Attozned to the same I. S. here in Court, Et Cogn. & fec. Fealty. Wherefore let the fine thereof be ingrossed, &c.

Quo

Quo jure exigit Com. Pasture.

Quo jure exigit Com. Past.

Pasch. 2 Ja. rot. 1654. Browker. Norff. *ff.* L. B. E. M. R. D. and R. B. were summoned to answer R. G. Esquire of a plea; by what right they, together with G. P. W. M. W. B. and T. W. exact common of Pasture and Estovers in the land of the same R. G. whereas the same R. G. hath no common in the land of the same L. B. &c. neither the same L. &c. together with the said G. W. W. and T. doe him service, wherefore Common in the land of the said R. G. they ought to have, &c. And whereupon the same R. G. by T. E. his Attorney saith, that the same L. E. R. and R. B. together with the same G. W. VV. and T. Common of Pasture and Estovers, in the land of the same R. G. to wit, in 10 acres of Pasture and wood, parcel of the same Pasture and wood called VV. containing by estimation 16 acres lying in H. in the County aforesaid, between the lands of the late Prior of Norwich in the South part, and the Common of Pasture in H. aforesaid on the North and abutting upon, and certain parts there called S. M. towards the East, and upon the heads of the lands of divers men in H. aforesaid towards the West, whereas the same R. G. hath no Common in the lands of the same L. E. R. G. W. VV. and T. neither the same L. E. R. and R. together with the same G. VV. VV. and T. doe him service, wherefore Common in the land of the same R. G. they ought to have, &c. whereupon he saith he is the worse, and hath damage to the value of 10 l. And thereof bringeth suite, &c. The Defendant hath imparlance until Crastin. Trin. &c.

Quo jure exigit Com. Past.

P. 2 H. 6. rot. 393. Ebor. *ff.* J. de L. and S. his wife were summoned to answer the Master of the Hospital of St. L. in York of a plea by what right they exact the Common of Pasture in the land of the same Pr. in H. whereas the same Pr. hath no Common in the Land of the same I. and S. neither the same I. and S. doe him service, &c. wherefore they ought to have Common in the land of the Pr. &c. And whereupon the same Pr. by T. his Attorney saith, that the said I. and S. unjustly claimeth Common of Pasture in the land of the same Pr. to wit to Common in 200 acres of Moore called S. lying between the Common of Pasture of the Town of F. against the West, and the T. on the East with all Cattle at all times in the year, whereas the same Master hath no Common in the land of the same I. and S. neither the same I. S. doe him service, wherefore Common in the land of the same Pr. ought to have, &c. whereupon he saith, &c. damages, &c. And the same Defendant cometh, &c. And whereas the same Master above supposeth the same I. de L. and S. unjustly to claim Common of Pasture in the land of the same Pr. in the same Town of H. to wit, to common in the same 200 acres of Moore, with all manner of Cattel at all times in the year, whereas the same Pr. hath no Common in the land of the same I. and S. neither the same I. and S. do him service, &c. wherefore they ought to have common in the land of the same Pr. the same I. and S. say, that they claim common of Pasture in the same 200 acres of Moore, with all Cattel at all times of the year, and to one Messuage, and 16 Dregange of land with the appurtenances in the same Town of H. and justly, &c. because they say that they are seised of the same Messuage, and 16 Dregang of land, with the appurt. in which, &c. in their Demesne, as of fee, and of the Common aforesaid were seised, as in fee and right in the time of peace, in the time, &c. father of the King, now taking thereof the profits, to the value, &c. to wit, to common in the same 200 acres of Moore, as in their Common, with all manner of Cattel in all times in the year, as appendent to the same Messuage, and 16 Dregange of land, with the appurt. And the same I. & S. and all those whose estate they now have in the same Messuage, and 16 acres of land, with the appurt. unto which, &c. have had Common of pasture in the same 200 acres of Moore

¶ 3002, with all manner of Cattell at all times in the year, as appendant to the same Messuage, and 16 Dregang of land, with the appurt. from the time whereof the memory of man is not to the contrary; And that such is their right, do offer, &c.

And the same M. defends the right of the same I. and S. when, &c. And whereas the same I. and S. claim common of Pasture in the same 200 acres of 3002, to wit, to common in the same with all manner of Cattell at all times of the year as appendant to the said Messuage and 16 Dregang of Land with the appurtenances, for that the same I. S. are seised of the same Messuage and 16 Dregang of Land, with the appurtenances, unto which, &c. in their demesne of fee, and of the Common aforesaid were as seised, as of fee right in the time of Peace, and in the time H. late King of England, Father of the King now, taking thereof the profits to the value, &c. to wit, to common in the aforesaid 200 acres of 3002, as in their Common with all manner of Cattell at all times in the year, as appendant to the said Messuage and 16 Dregang of Land with the appurtenances, the same I. and S. and all those whose Estates they now have in the same Messuage, and 16 Dregang of Land, with the appurtenances unto which, &c. had Common of pasture in the same 200 acres of 3002 with all manner of Cattell at all times in the year as appendant to the Messuage and 16 Dregang of Land with the appurtenances from the time whereof the memory of man is not to the contrary. And that such is their right offered, &c. the same Mr. defendeth the right of the same I. S. and their seisin, as in fee and right, and the whole, and especially of the same Common, to wit, to common in the same 200 acres of 3002, as in their Common for all manner of Cattell at all times in the year, as appendant to the same Messuage and 16 Dregang of Land, with the appurtenances, And saith, that the same I. and S. unjustly claim the Common aforesaid, by such right that they, and all those whose Estate the same I. and S. now have to the said Messuage, and 16 Dregang of Land, with the appurtenances, had common of Pasture in the same 200 acres of 3002 of the same Mr. to wit, to common in the same, as in their Common, with all manner of Cattell at all times in the year, as appendant to the same Messuage, and 16 Dregang of Land, with the appurtenances, from the time whereof the memory of man is not to the contrary. And that the said Mr. hath greater right to hold the same 200 acres of 3002, as in the right of his Hospital aforesaid in febralty as he non-holds them, then the same I. and S. to have the Common aforesaid, to wit, common in the same 200 acres of 3002, with all manner of Cattell at all times in the year, as appendant unto the said Messuage, and 16 Dregang of Land, with the appurtenances as the same I. and S. claim, he the said Mr. is ready to defend by the Body of I. Son of I. W. by name, his free man who is present here in Court ready to defend it by his Body, in such manner as the Court here shall consider. And if it shall happen amisse to the same I. Son of I. that he depart, the same Mr. is ready to defend it by another who, &c. And the same I. L. and S. say, that the same Mr. unjustly defendeth the right of the same I. and S. and their seisin, as in fee and right, and the whole, &c. And chit. ay of the Common aforesaid, because they say, that they are seised of the same Messuage, and 16 Dregang of Land, with the appurtenances unto which, &c. in their demesne as of fee, and were seised of the Common aforesaid as in fee and right, in the time of peace, in the time of H. late King of England, Father of the same King, now taking thereof the profits, to the value, &c. to wit, to common in the same 200 acres of 3002, as in his Common aforesaid, with all manner Cattell at all times in the year, as appendant to the same Messuage, and 16 Dregang of Land, with the appurtenances, the same I. and S. and all those whose Estate they now have in the same Messuage, and 16 Dregang

Quo Warranto, &c.

Disfranch.

gang of Land, with the appurtenances unto which, &c. had common of Pasture in the same 200 acres of Moor, with all manner of Cattel at all times in the year as appendant unto the same Messuage and 16 Acregang of Land, with the appurtenances, from the time whereof the memory of man is not to the contrary. And that such is their right they are ready to defend, that by the body of his free man T. Son of O. by name, who is present here in Court to defend it by his body, to insoever the Court shall consider. And if it shall happen amiss to the same T. Son of O. quod absit, then the same I. de L. and S. are now ready to defend by another who, &c. And hereupon it is besought of the same T. the Son, and I. Son of I. that they be ready to perform the Duel aforesaid, as the parties aforesaid the same have above waged, And say quod sic. And surety being given between them, as the manner is, it is requested as well of the said I. de L. and S. as of the aforesaid Mr. if they know any thing wherefore the Duel in this Case ought not to be considered? who say no. Wherefore it is considered, that the said Duel be made, and the said I. de L. and S. find Pledges of the Duel, to wit, I. C. and R. B. And the said Mr. find Pledges of the Duel, to wit, I. B. and W. K. And hereupon day is given to the parties aforesaid, such a day in the same Term. And it is said to them, that each of them have here his Champion, as armed and ready to perform the Duell aforesaid, And that in the mean time they safely keep their houses, for the danger that may arise, at which day here came the same Mr. by his Attorney aforesaid with the said I. Son of I. his Champion aforesaid, as it behooved, armed to perform the Duel aforesaid. And the same Mr. the same above waged. And the same I. de L. and S. then being solemnly called by interballs came not. Wherefore it is considered, that the said Mr. hold the same 200 acres of Moor, in fealty to him and his Successors for ever, as in the right of his Hospital aforesaid discharged of the common of Pasture quiet from the same I. de L. & S. and their heirs for ever. And as well the same I. and S. as their Pledges aforesaid for the Duel in mercy, &c.

See P. 15 Ja. rot. 79. Pl. bre. C. against W. Such a Judgement. See the Book of Entries fo 530 Tit'e quo jure Pl. 2 H. 45. Eliz. rot. 113. Scot. R. against D. Such a judgement.

Quo Warranto.

T. 2. Ja. rot. 2702. C. Norwich, Cook against the Mayor and Citizens of N. H. 2. Ja. rot. 3145. P. 7. Ja. rot. 1434. Horbart Attorney general brings a Quo warranto in the Common Bench against T. and S. for usurping of others Franchises and liberties in Rippon in the County of York, issue for part, and disclaimer for part, it is respited until the issue be tried.

Quod ei deforceat.

M. 26. & 27 Eliz. rot. 40. amongst the Pleas of Lands Fylmer, Willgorn. ff. P. T. and K. his Wife against I. C. issue in Quod ei deforceat of Lands in Hanly Castle.

T. 19. I. rot. 64. amongst the Pleas of Lands Brownlow, South. ff. K. and his Wife Demandants against D. in a Quod ei deforceat the Tenant pleads a recovery in Bar, in Formidon by default, issue that the Donor devised not in tail.

Quod ei deforceat.

M. 16. & 19 Eliz. rot. 1897. C. Bristol. ff. R. M. & Eliz. his Wife, T. C. their Attorney demand against T. S. 5 Messuages, with the appurtenances in C. B. which they claim to hold for the term of the life of the same Eliz. And that the same I. them deforced, &c. And whereupon they say, that they were seised, &c. as in a recovery usque lectam, &c.

Actio non, because he saith, that he at another time to wit the 27 day of Octob. An. Reg. &c. 14. persecuted out of the Court of Chancery of the said Lady the D. now, at Westm. in the County of Midd. then being a certain writ of the said Lady the Queen de forma monac. in remainder against R. & G. and certain R. I. and G. and others then tenants of the same tenements with

with the Appurtenances, as of free Tenement, directed to the then Sheriffs of the City aforesaid, and before the then Justices of the same Lady the Queen of the Common Bench here at Westm. in the County of Middlesex, in O. H. next following returnable, alleging then, and supposing by the same Writ de forma donationis, that one W. H. had given the Tenements aforesaid with the Appurtenances to certain H. W. and K. his Wife, and the Heires males of their bodies begotten, and for default of such issue, the remainder thereof, to Jo. W. eldest Daughter of the same H. and K. and the Heires males of their body begotten. And which after the death of the same H. and K. and John. Son and Heir of the same H. and K. and of the same I. the elder, and I. the younger, to the same I. S. Son and Heir of the said I. the younger, ought to remain by form of the same gift, for that the same I. W. died without Heir male of his body begotten, no Heirs males of the body of the same K. nor of the body of the same I. the elder, being then living, By which said Writ, the said Lady the Queen, now to the same Sheriffs, commanded, that the same I. S. should make the same then Sheriffs, secure, of prosecuting his Complaint, then they summon by good Summoners, the same R. M. and Eliz. his Wife, and others, that they should be before the then Justices of the Lady the Queen, here to answer to the same I. S. of a Plea of the Tenements aforesaid. At which said O. H. *Sci. Hil.* before I. D. Knight, and his Associates, then Justices of the said Lady the Queen, of the Common Bench here, came the same I. S. by his Attorney aforesaid, and offered himself the 4. day, against the same R. M. and E. and others of the Plea, of the Tenements aforesaid, with the Appurtenances which the same I. S. in the Court of the Queen here claimeth, as his right against the same R. M. and E. and others, by the same Writ, *de forma donationis in remanere.* And they came not, certain W. G. and R. K. then Sheriffs of the City of B. then returned the Writ aforesaid to them, in form aforesaid directed in all things served and executed, to wit, that the same I. S. had found to the same then Sheriffs, Pledges, to prosecute this Writ aforesaid to wit, I. D. and R. R. and that the same R. M. and E. and others, were summoned by T. P. and B. C. and the said R. M. and E. and others then being solemnly called, came not, and summoned, &c. whereupon it was then considered, that the Tenements aforesaid, with the Appurtenances, should be taken into the hands of the said Lady the Queen: whereupon it was then commanded to the then Sheriffs of the City of B. that by the view of honest and lawful men of the County aforesaid, he take the Tenements aforesaid with the Appurtenances into the hands of the said Lady the Queen and the day &c. And that they summon by good Summoners, the same R. M. and E. and others, that they should be here in Cro. Ice. Trinitatis, to answer to the same I. S. as well of the principal Plea as of the default aforesaid, &c. At which day, here cometh the same I. S. by his Attorney aforesaid, and offered himself the fourth day against the same R. M. and E. &c. others of the same Plea, and they being solemnly called, came not. And E. P. and W. B. then Sheriffs of the City of B. aforesaid, then testified here, the day of taking, &c. and that they summoned &c. whereby it was then considered, that the said I. S. should recover his Seisin against the same R. M. and E. and others of the Tenements aforesaid with the Appurtenances, by default, &c. And that the same R. M. and E. and others then should be in mercy, &c. by which the same I. S. into the Tenements aforesaid, with the Appurtenances entred, and was thereof seised in his Demesne, as of free soil, by form, &c. And the same I. S. saith, that he is ready to maintain his right and Title aforesaid; whereupon he prayeth judgment, if the same R. M. and E. their Action aforesaid, against him ought to have, &c.

M. 27. & 28.
Eliz. Rot.
27. 17. A.
against B.

Preclusion, Because they say, that well and true it is, that the same I. W. gave the Tenements aforesaid with the Appurtenances, to the same H. W. and K. his Wife, and the Heirs Males, out of the Body of the same K.

Et t t t

coming

Quod ei deforceat.

comming, and for default of such issue, the remainder thereof, to the same Johan W. eldest Daughter of the same H. W. and K. and the Heires Males of her Body comming. And for default of such issue, the remainder thereof, to the same Johan W. the younger Daughter of the same H. and K. and the Heires of her Body comming, as by the Writ de forma donationis, in Barr of the same I. S. above specified, is supposed; but the same R. and E. say, that after the decease of the same H. W. and K. and of the same I. W. I. and John, and before the day of purchasing of the original Writ of the same I. S. de forma donationis aforesaid, to wit, in Oct. Sci. Hillarii. An. Rne. 13. a certain Fine was levied in the Court of the said Lady the Queen now, here to wit, at Westmint. aforesaid, before I. D. R. W. I. W. and R. H. then Justices, and other of the said Lady the Queen, faithful persons, then there present, betwixen certain G. H. and I. W. Plaintiffs, and the same I. S. by the name of I. S. and R. O. and S. his Wife, deforceants, of the Tenements aforesaid, with the Appurtenances amongst other things, by the names ac. with the Appurtenances in C. B. whereof a plea of Covenant was summoned between them in the same Court, to wit, that the same I. S. and others acknowledge, ac. for ever, as by the same Fine, more fully appeareth: which said Fine, in form aforesaid levied, was to the use of the same G. and I. W. By vertue whereof, the same G. and I. W. were seised of the Tenements aforesaid, with the Appurtenances in thir Demeasne, as of fee. And being so thereof seised, the same G. and I. W. afterwards, and before the same day of the purchasing of the said Writ, de forma donationis, demised the Tenements aforesaid, with the Appurtenances to the same E. Wife of the same R. M. to hold to her for terme of her life, By vertue whereof, the same R. M. and E. were thereof seised in their Demeasne, as of free Tenement, in the right of the same E. And this they are ready to verifie, whereupon they pray Judgment, if the same I. S. against the fine aforesaid, by him and the same R. and S. in form aforesaid, levied his said Writ, de forma donationis in remanere, against the same R. and E. and others, ought to prosecute and maintain, And pray Seisin of the Tenements aforesaid, with the Appurtenances to them to be adjudged, &c.

And the same I. S. saith that the Tenements aforesaid, with the Appurtenances in the Declaration aforesaid, above specified, are not contained in the same Fine. And this he is ready to verifie; whereupon he prayeth judgment, And that the same R. M. and E. from having their Action aforesaid may be barred, &c.

And the same R. M. and A. say, that the Tenements aforesaid, with the Appurtenances above specified are contained in the fine aforesaid, as they have above alleged. And this they pray may be inquired of by the County, and the same I. S. likewise. Non pros is entered.

Quod Permittat.

Count for
Common
of Pasture.

H. 13. Jacobi Rot. 685. e. Brownlow, Warr. ff. I. T. late of, ac. Cent. was summoned to answer R. M. Cent. of a Plea, that he suffer the same R. to have Common of Pasture in 40. Acres of Land of the same I. in the Parish ac. which he ought to have, ac. And whereupon the same R. by T. H. his Attorney saith, That wheras he is seised and by the space of three years last past, and more, was seised of one ancient Mes. with the Appurtenances in the same Parish, ac. aforesaid, in his Demeasne, as of fee. And the same R. and all those, whose Estate the same R. hath in the same ancient Mes. with the Appurtenances, from the time, whereof the memory of man is not to the contrary, have, and were

were accustomed to have for himself, his Farmers, and Tenants of the same Mes. with the Appurtenances, Common of Pasture, in the same 40. Acres of Land, called H. Close, and V. Close, of the same L. in the same Parish, &c. for two Beasts, or one Beast, and one Colding, in, and upon the same ancient Mes. lying, and being every year, from the last day of July, until the Feast of the Annunciation of the blessed Virgin Mary, then next following, as to the same ancient Mes. with the Appurtenances belonging, and appertaining. And the same R. so of the same ancient Mes. with the Appurtenances, being seised, the same I. T. endeavouring the same R. of his Common of Pasture aforesaid, in the same 40. Acres of Land of the same L. to hinder, the 6. day of August, An. &c. 13. the same 40. Acres of Land, with the Appurtenances, with Hedges and Ditches inclosed, and so inclosed from the same 6. day of Aug. An. 13. abovesaid, until the day of the purchasing of the original Writ of the same R. to wit, the 6. day of Novem. An. 13. abovesaid kept, whereby the same R. into the same 40. Acres of Land, for to have his Common of Pasture for his own Beast, and one Colding, in, and upon the same ancient Mes. of the same R. lying, and being into the same 40. Acres of Land of the said L. could not enter. And so the same I. the said R. of his Common aforesaid hindered, and the same R. to have his Common aforesaid, in the same 40. Acres of Land, hath not permitted, nor yet doth permit; whereupon, &c. damage 40 l. &c. And the same I. T. by E. R. his Attorney cometh, &c. and saith, no Action, &c. because he protesteth, that the same R. was not seised of the said ancient Mes. with the Appurtenances in his Demes. as of fee, in manner and form as the same R. by his Declaration aforesaid, above supposeth for Plea. notwithstanding the same I. saith that the same R. and all those, whose Estate the same R. now hath, in the same ancient Mesuage, with the appurtenances, from the time, whereof the memory of man is not to the contrary, have not had nor were accustomed to have for himself, his Farmers and Tenants of the same Mes. with the Appurtenances, Common of Pasture in the same 40. Acres of Land, with the Appurtenances, for two Beasts or one Beast, and one Colding, in, and upon the same ancient Mes. lying, and being every year, from the last day of July, until the Feast, &c. then next following, as unto the same ancient Mes. with the Appurtenances belonging, and appertaining, in manner and form as the same R. by his Declaration aforesaid, above supposeth. And of this, he putteth himself upon the Country, and the same R. likewise: therefore the Sheriff is commanded, that he cause to come here in Oct. Par. xij. &c. Plaintiff non Pros afterwards.

H. 7. H. 6. Rot. 130. ff. The Prior of the Church of M. against M. quod permittat proferre damage brought against the Heir, the like M. 6. H. 8. Rot. 601. the Abbot of M. against E. the like brought by the Heir. P. 25. H. 8. Rot. 324. Devon. between S. and G.

Jura de pto quod permittat de conia pasture, &c. H. 6. Eliz. Rot. 749. *Issue only.* T. 8. Ja. Rot. 3679. H. 13. Ja. Rot. 3218.

M. 3. Jac. Rot. 2592. Quod permittat, to cast down a gitty, which was raised near the same Mill, so that the water is returned back to the Wheel of the Mill, so that it cannot grind so much as before, &c.

M. 36. & 37. Eliz. Rot. 1716. Quod permittat, to fiat 3. Water Mills.

T. 8. Eliz. Rot. 924. the Defendant saith, Quod permittit. And the Plaintiff, for that the Arch Bishop hath alleged nothing above, but that the same W. ought to have Common of Pasture in the Wood ground, in form aforesaid, prayeth judgment against the same Arch Bishop to him to be adjudged &c. Therefore it is considered, that the Plaintiff have his Common of Pasture aforesaid, and the said Arch Bishop in mercy, &c. And hereupon, the same Plaintiff freely here in Court, remitteth to the same Arch Bishop, whatsover damages to him, by reason of the Premises, to be adjudged;

Mercy;

Quod permittat.

fo 5.27.2. judged &c. And a Mist of Error, See the new Book of Entries, fol. 527. between A. and A. the like President.

T. 3. J. A. Rot. 103. between B. and C. Quod permittat, brought by the Purchaser against the Heir. H. 33. Eliz. Rot. 2040. Demurrer in a Quod permittat, P. 34. Eliz. Rot. 351. Quod permittat ad exaltare Stagnum. Coia and Judgment for them.

Count for
obstructing
a way.

T. 42. Eliz. Rot. 322. s. Brownlow, Cornub. ff. I. B. was summoned to answer I. A. of a Plea. that he permit him to have a certain way in St. C. M. which R. C. the Uncle of the same J. C. whose Heir he is, unjustly and without Judgment obstructed to the detriment of the free Tenement of J. A. Knight, Father of the same J. A. Esq; whose Heir he is within the same Town, within 50 years, &c. And whereupon the same J. A. the Son by F. E. his Attorney saith that whereas the same J. A. the Father, in his life time, was seised of one Messuage, with the Appurtenances in St. C. M. aforesaid, in his Demesne, as of fee. And the same J. A. the Father, and all those, whose Estate the same J. then had in the M. f. aforesaid, with the Appurtenances, from the time whereof, the memory of man is not to the contrary had, and were accustomed for themselves, Tenants and Farmers, of the same Messuage, and their Servants, a certain way, as well Foot as Horse, for Carts and all other Carriages, to passe, carry, and recarry, upon the Lands late of the same R. C. And now of the same I. C. lying in St. C. aforesaid, unto the high Street in St. C. aforesaid, and from his said Messuage aforesaid, unto the Street aforesaid, and from the Street aforesaid, unto the Messuage aforesaid, at their pleasure, at all times of the year, as unto the Messuage aforesaid belonging: the same R. in his life time, to wit. the 20. day of July. An. Rne. 24. at St. C. aforesaid, the same way unjustly and without judgment, with certain Hedges and Ditches in his way, aforesaid obstructed, whereby the same J. A. the Father, his Farmers and Tenants, and their Servants, of the Messuage aforesaid, to carry their dung from the Messuage aforesaid, by, and beyond the same way, unto the Street aforesaid, and their fuel, and other necessaries from the Street aforesaid, unto the Messuage aforesaid, by the same way, to recarry going and returning at their pleasure, could not, And the way aforesaid so quietly and freely as before they were wont, could not have take and use, to the detriment of the free Tenement, of the same J. A. Knight, the Father of the said J. A. Esq; whose Heir he is in the same Town, within 50. years, &c. And the same I. A. the Father of the Messuage aforesaid, with the Appurtenances in form aforesaid, being seised afterwards at St. C. aforesaid died of such his Estate therein seised, after whose death the Messuage aforesaid, with the Appurtenances descended to the same I. A. Esq; as to the Son and Heir of the same I. A. Knight, whereby the same I. A. Esq; into the M. f. aforesaid, with the Appurtenances entered, and was, and yet is thereof seised in his Demesne, as of fee. And being so thereof seised and the same R. C. of his Land aforesaid, in his Demesne, as of fee being seised, the same R. afterwards at St. C. aforesaid, died of such his Estate therein seised, without Heir of his Body begotten; after whose death the Land aforesaid, descended to the same J. C. as Cozen and Heir of the same R. to wit, Son and Heir of J. C. Brother of the said R. C. And although the same I. A. Esq; often requested the same I. C. that he would suffer the same I. A. Esq; to have the way aforesaid, so to the detriment of the free Tenement of the same I. A. Knight, obstructed. Notwithstanding the same I. C. the same I. A. to have the way aforesaid, hitherto hath not suffered, nor yet, unjustly, doth not suffer to the damage of the same I. A. Esquire, &c.

And

And the same *I. C.* by, &c. cometh &c. And protesteth that the same *I. A.* the Father and all those whose estate the same *I.* then had in the Mes. aforesaid with the appurtenances from the time whereof the memory of man is not to the contrary; had not, nor were accustomed to have for himself Tenants and Farmers of the same Mes. and their Servants a certain way as well foot as horie for their Carts and other their Carriages to passe carry and re-carry upon the Lands late of the same *R. C.* and now of the same *J.* in manner and forme as the same *J. A.* now Plaintiff, hath above alleadged protesteth also that the said *R. C.* in his life time and justly without Judgment did not obstruct the way aforesaid with hedges & ditches, as the same *J. A.* the Plaintiff hath above alleadged, protesteth also that the same *J. A.* Knight died not seised of the Message aforesaid with the appurtenances in manner and form as the said *J. A.* the Plaintiff hath above alleadged; for Plea, saith that long before the same time wherein the obstruction of the way aforesaid is supposed to be done the same *I. A.* Knight was seised of the Mannor or St. *Cleghigher* with the appurtenances in the County aforesaid whereof the same Mes. of the same *J. A.* Knight in *S. C.* aforesaid was then parcell in his demeasne as of Fee, and to being thereof seised levied a certain tyne in the Court of the said Lady the Queen here, to wit, &c. Anno 30. &c. before *E. A.* and others, &c. between certain *E. S.* Knight *J. P.* Knight, and others Plaintiffs and the same *J. A.* Knight and one *A.* his wife, and *J. A.* Esq. defendants of the Mannor aforesaid with the appurtenances whereof, &c. amongst other things by the names of the Mannors of *C.* and *H.* with the appurtenances and of 20. Mes. 10. Tofts 2. Milles, 20. Gardens, 20. Orchards, 500. Acres of Land, 200. Acres of Meadow, 300. Acres of Pasture, 40. Acres of Wood, 300. Acres of Furze and Heath and 50 *s.* Rent, with the appurtenances in *C. H. W. N.* &c. and the moyety of the Mannors of *H.* and *F. N.* with the appurtenances and the moyety of 20. Mes. 10. Tofts, 2. Mills, 20. Gardens, 20. Orchards 500. Acres of Land, 200. Acres of Meadow, 500. Acres of Pasture, 500. Acres of wood 200. Acres of Furze & Heath, & 50 *s.* Rent with the appurtenances in *H. F. N.* & *L.* & also of the moyety of the advowson of the Church of *H.* in the County of *D.* and the Mannors of *M. A. T. B. D. D. S. G. L.* and *B.* with the appurtenances, and 60. Mes. 20. Tofts, 3. Mills, 60. Gardens, 60. Orchards, 1000. Acres of Land, 150. Acres of Meadow, 1000. Acres of Pasture, 60. Acres of Wood, 500. Acres of Furze and Heath, and 100 *s.* Rent, with the appurtenances in *M. A. T.* &c. And of the 4th. part of the Mannors of *F. W. H. L.* and others, &c. with the appurtenances and 100. Mes. &c. And also of the fourth part of the hundreds of *H.* and *H.* with the appurtenances and also of the fourth part of the Advowsons of the Churches of *H.* and *D.* in the County of *D.* and of the Mannors of *S. C.* the higher *T. M. T.* &c. with the appurtenances, and of 20. Mes. &c. and also of the advowson of the Church of *St. C.* in the County of *C.* and of many more Mannors, Lands, Advowsons, Rents, &c. Whereof a Plea of Covenant was summoned, between them in the same Court, to wit, that the same *I. A. A.* and *J.* acknowledged the same Mannor Tenements and Rent moyety and fourth part with the appurtenances, and the Advowsons aforesaid to be the right of the same *E.* with many limitations of uses and Remainders, &c. And the same *I. A.* Knight being thereof seised, the Remainder thereof to the said *A. A.* for term of the life of *A. Lady S.* the Remainder thereof as is above limited in form aforesaid belonging the same *I. A.* Knight at *S. C.* aforesaid died of such his estate in form aforesaid seised, after whose death the same *I. A.* now plaintiff and the same *A. A.* his wife into the same Mannor of *S. C.* with the appurtenances whereof &c. as in the same Remainder of the said *A. A.* entred and were & yet are thereof seised in their demeasne as of free tenement for term of life of the said Lady *A. S.* in

Barr.

Plea.

Quod Permittat.

Averment.

Mercy.

the right of the same *A. A.* which said Mannor of *S. C.* with the appurtenances whereof, &c. after the death of the same *I. A.* descended to the same *J. A.* now Plaintiff in manner and form as the same *J. A.* now Plaintiff by his Declaration aforesaid above supposed. And this, &c. whereupon &c. with this that the same *I. C.* will verifie that the same *A. Lady S.* is yet Surviving and in full life to wit at *S. C.* aforesaid, &c. whereupon the same *I. A.* solemnly called came nor nor hath prosecuted his writt aforesaid, theretore they and their pledges to prolecut are thereof in mercy, &c. Let the names of the pledges be inquired of, and that the same *I. C.* go thereof without day, &c.

WILLIAMS.

Quod permittat to cast down a Mill and Walls brought against the heir, by the issue in Taille, as purchaser.

T 30. *Eliz. Rot. 2412. ff. I.* Lord *S.* was summoned to answer *I. C.* Gent. of a Plea that he suffer him to cast down a certain Mill, and certain walls in *K.* which *W.* late Lord *S.* unjustly and without judgment built there upon the free Tenement of the same *W.* and now of the same *I.* to the detriment of the free tenement of the same *I.* in *T.* in the same County within 50. years, &c. And whereupon the same *I.* by *A. W.* his Attorney saith that whereas certain *W. C. W. G. T. S. T. M.* &c. were seised of the Mannor of *N. S.* with the appurtenances in *T.* aforesaid in their demeanne as of Fee. and being so thereof seised, gave the Mannor aforesaid with the appurtenances to certain *T. C.* and *M.* his wife and the heirs of the bodies of the same *T.* and *M.* coming, by which said gift the same *T.* and *M.* were seised of the Mannor aforesaid with the appurtenances in their demeanne as of Fee taylor, to wit, to them and the heirs of their bodies coming, and being so thereof seised at *T.* aforesaid died, of such their estate therein seised, after whose death the Mannor aforesaid with the appurtenances descended to the same *I.* as Son and heir of the same *T.* and *M.* whereby the same *I.* into the said Mannor with the appurtenances entred, and was and yet is thereof seised in his demeanne as of Fee taile by form of the gift aforesaid, and whereas also a certain water course from the time whereof the memory of man is not to the contrary had and held a right and ancient course between the banks on both sides of the same water Course, whereof one Bank is parcell of the Mannor aforesaid, and the other Bank is parcell of the Lands of *I. H.* Knight lying in *B.* in the County of *D.* directly running from *S.* in the same County of *S.* unto two Acres of Land in times past of the same *W. S.* and now of the same *I.* in *K.* aforesaid and from thence unto a certain Bridge called *T.* Bridge in the same County of *S.* the same *W. S.* the 10. day of July *A. H.* 8. 38. a certain Mill upon the bank of the same water on the North part of the same water in parcell of the same two Acres of Land in *K.* aforesaid, and certain Walls in length 40. foot and high 5. foot, extending backward and upon each side of the water aforesaid in the same two Acres of Land in *K.* aforesaid, unjustly and without judgment built, whereby the same water from his ancient course, was and yet is hindred and is so much exalted and over-flown that the same water beyond the same bank which is parcell of the said Mannor of *M. S.* reflowed, and wasted and consumed the same Bank, and two Acres of Land of the same *I.* parcell of the Mannor aforesaid by the Redundancy reflux and overswelling aforesaid, are wholly drowned and wasted to the detriment of the Free Tenement of the same *I.* Neverthelesse the same *I. S.* although often requested, &c. the same *I.* to cast down the same Mill and Walls hath not suffered, nor yet doth suffer, to the damage of the said *I.* of 200. *l.* and thereof bringeth suite, &c.

M.

M 33. and 34. *Eliz. Rot. 1708. Midd. ss. E. P. Eq.* and *M.* his wife were summoned to answer *H. C. Gent.* of a Plea, that they suffer him to pull down a certain house in the Parish of St. S. which *I.* late unjustly and without judgment built there, upon the Free tenement late of the same *I.* and now of the same *E.* and *M.* to the nocumment of the Free Tenement of *T. C. Esq.* and now of the same *H.* in the same Parish within 50. years, &c. And whereupon the same *H.* by *I. C.* his Attorney saith that whereas the same *T. C.* was seised of one Mes. and one Court yard adjoining to the said Mes. with the appurtenances in S. in the Parish afore said in the same County of *Midd.* in his demise as of Fee & being to there of seised the same *I. C.* the 2. day of *Octob. Anno. Maria Regini.* unjustly and without judgment built there upon the then Free Tenement of the same *J.* and now of the same *E.* and *M.* the house afore said so near the Court Yard, afore said that the same house doth hang over a great part, to wite, three foot of the Court yard afore said, so that the Showers descending from the same house, the ground of the said Court yard doth greatly wear and from day to day doth more and more consume and wast, and by that Reason the Court yard afore said at all times of rain is so greatly moistned and overflowed that the same *H.* Inhabiting in the same Mes. can receive no profit or easement out of the same Court yard to the nocumment of the free Tenement of the same *H.* therein, and although the same *H.* hath often requested the same *E.* and *M.* that they would permit the same *H.* to put down the same house, so to the nocumment of the now free tenement of the same *H.* built. Notwithstanding the same *E.* & *M.* the same *H.* to pull down the same house hitherto have not suffered nor yet suffer, without right, damage 100 *l.* and thereof bring suite, &c.

Quod permittat a house brought by the purchaser, against the Feeffee. *P. 31. and 32. Eliz. Rot. 2314. P. 25. H. 8. Rot. 324.* the like brought by the heir. Count. *H. 37. Eliz. Rot. 387. Bassetts case Coke 9. Fol. 52. entred Trin. 8. Jac. Rot. 2609.*

And the same *E.* and *M.* by *F. C.* their Attorney come, &c. *Actio non*, because he saith that the said *I. C.* did not build the same house to the nocumment of the Free Tenement late of the same *T. C.* and now of the same *H.* as they by their Writt and Declaration afore said above suppose, and of this they put themselves upon the Country, and the same *H.* likewise, therefore the Sheriff is commanded that 12. &c. At which day here came as well the same *H.* as the same *E.* and *M.* by their Attorneys afore said, and the Jury thereof impannelled likewise came, who to speak the truth of the premises being elected tryed and sworn say, upon their oath that the same *I. C.* unjustly and without judgment built the house afore said upon the free tenement of late of the same *I.* and now of the same *E.* and *M.* so near the Court yard afore said that the same house hangeth over the Court Yard afore said 22. Inches of the same three Feet in the Declaration above Specified and not above to the nocumment of the Free Tenement late of the same *T. C.* and now of the same *H.* and assesse the damages of the same *H.* by occasion of the premises, besides his Costs and Charges by him about his suite in this behalf expended to 15. *s.* and for those Costs and Charges to 10. *s.* Therefore no respect being had to the taxing of damages afore said, it is considered that the said nocumment be removed, and the same 22. Inches of the house afore said by the Jury afore said in form afore said found to hang over with the appurtenances he flatted, &c. And the same *E.* and *M.* thereof in mercy, &c. And likewise the same *H.* in mercy for his false claim against the same *E.* and *M.* of the residue of the nocumment afore said whereof they by the Jury afore said are above acquitted, and the same *E.* and *M.* and it is commanded the Sheriff that he distrein the same *E.* and *M.* by all their Lands and Charties, and that of the issues &c. So that the same 22. Inches hanging over the Court yard afore said be taken away &c. and whar, &c. the Sheriff make to appear here such a day, &c. See Coke 5. Fol. 100.

Issue non levant.

Tryall at the bar t. Westminister.

Verdict part for the Plaintiff, part for the Defend.

Judgment that part of the house be taken away, no respect to the damages.

H. 13. Jac. Rot. 2108. C. Lich. R. against P. Such a Judgment with Costs and Damages.

Distingas awarded accordingly.

Quod Permittat.

H^{24.} *Eliz. Rot. 1018. s. Ford. Back. ff. R. B.* Esquire was summoned to answer *E. B.* that they suffer him to have a certain way beyond the Land of the said *R.* in *H.* which belongeth to his Free tenement in *L.*; whereof, *R. B.* Knight Father of the said *R.* unjustly and without Judgment disseised *G. B.* Esquire the Grandfather of the same *E.* whose heir he is within 40. years. &c. And whereupon the same *E.* by *W. M.* his Attorney saith that the same *G. B.* Grandfather, &c. was seised of one Mes. with the appurtenances called *B.* in *R.* aforesaid in his demesne as of Fee and the same *G.* and all those whose estate the same *G.* then had in the Mes. aforesaid with the appurtenances from the time whereof the memory of man is not to the contrary, had and were accustomed to have a certain way beyond the Land of the same *R. D.* Knight to witt 20. Acres of Land called *C.* and *R.* in *H.* aforesaid from the said Mes. against *B.* in the County aforesaid, and from thence unto the same Mes. by the same way beyond the Land of the same *R. D.* Knight as well foot as horse and to carry and recarry with all carriages, Carts, and other carriages by the whole year every year when and as often as it shall please them, unto the same Mes. with the appurtenances belonging of which said way the said *G.* was seised as of fee and right in the time of peace in the time of *H.* late King of England the 8. taking thereof the profit to the value, &c. And from the same *G.* the right descendeth, &c. to one *T. B.* as Son and heir, &c. And from the same *T.* descendeth the right to the same *E.* who now demands as Son and heir, &c. which said way the same *R. D.* Esq. doth not suffer the same *E.* to have to the damage of the same *E.* of 20. *l.* And thereof bringeth suite, &c.

T^{21.} *Jac. Rot. 1946. Ebor. ff. R. B.* Gent was summoned to answer *Ia. M.* Esq. one of the Curstors of the Court of Chancery of the Lord the King of a Plea that he suffer him to cast down a certain Mill-Bank *I.* otherwise *C. I.* in *C.* which *R. G.* Esq. deceased of late unjustly and without judgment made upon the Free Tenement, then of the same *Richard.* and now of the same *Roger* to the nocument of the Free Tenement then of *Roger M.* Esq. and now of the said *James* in *H.* in *C.* within 50. years then last past, &c. And whereupon the same *James* by *G. M.* his Attorney saith, that whereas the same *R. M.* was seised of 6. Acres of Meadow with the appurtenances in *H.* in the County aforesaid in his demesne as of Fee, and whereas the same *R. G.* was seised of 3. Acres of Land with the appurtenances in *I.* otherwise *C. I.* in *C.* aforesaid to the same 6. Acres of Meadow, with the appurtenances near adjoyning in his demesne as of Fee, and whereas also a certain water course doth run, and from the time whereof the memory of man is not to the contrary was wont to run as well to and by the same 6. Acres of Meadow with the appurtenances as to and by the said 3. Acres of Land with the appurtenances of the same *R. G.* in *J.* otherwise *C. I.* aforesaid the same *R. G.* of the same 3. Acres of Land with the appurtenances as aforesaid being seised within 50. years now last past to witt the first day of *May. Anno Eliz. 32.* above said at *I.* otherwise *C. I.* in the County aforesaid the said Mill Bank upon the Fee Tenement of the same *R.* to witt, upon the same 3. Acres of Land with the appurtenances, unjustly and without judgment made and the said water course by reason of the making of the said Bank was obstructed and stopped to the nocument of the free Tenement of the same *R. M.*

And the same R. M. of the same six Acres of Meadow, with the appurtenances in form aforesaid, being seised, the same Roger afterwards at H. in the County aforesaid died, of such his estate therein seised, after whose death the same six Acres of Meadow with the appurtenances, descended to one E. M. as Sonne and Heir of the said Roger, whereby the same E. into the same six Acres of Meadow, with the appurtenances, entred, and was thereof seised in his demeasne, as of Fee; And being so thereof seised, the same E. afterwards at H. in the County aforesaid, died of such his estate thereof seised, after whose death, the same six Acres of Meadow, with the appurtenances, descended to one C. M. Esquire, as Son and Heir of the same E. by which the same C. into the same 6. Acres of Meadow, with the appurtenances, entred, and was thereof seised in his demeasne, as of Fee. And being to thereof seised the same C. afterwards, to wit, the 6. day of May Anno &c. 16. at H. in the County aforesaid by his certain Indenture of bargain and sale, between the same C. and one W. G. Gent. of the one part, and the said James and certain Rog. T. Esquire, and Io. C. Esquire, of the other part, made, and afterwards, and within 6. Moneths then next following, in the Court of Chancery of the said Lord the King, at Westminster in the County of Middlesex, then being, according to the form of the Statute in this case made, and provided in due manner upon Record inrolled, which other part with the Seales of the same C. and W. sealed the same James here in Court bringeth, whose date is the same day and year, for, and in consideration of 2240 li. of lawful mony of England to the same C. and W. by the same James then, and there before hand paid, bargained and sold to the same I. R. C. and I. C. the same six Acres of Meadow with the appurtenances, amongst other things, to have and to hold to the same R. and I. and their Heirs, for ever. By pretext of which bargain, sale, & inrollment, the same I. R. & I. were seised of the same six Acres of Meadow, with the appurtenances in their demeasne as of Fee, and being so thereof seised, the same R. T. afterwards, to wit, the 28th day of April, Anno &c. 20. at H. aforesaid, by his certain writing, which the same James with the seal of the same R. sealed here into Court bringeth, whose date is the same day and year released, remitted, and quit claimed, to the same Ia. and Io. and their Heirs, his whole right, title, interest and demand of the same Roger of and in the same six Acres of Meadow, with the appurtenances. By virtue whereof the same Ja. and I. C. were seised of the same six Acres of Meadow, with the appurtenances in their demeasne, as of Fee; And being so thereof seised, the same Ia. C. afterwards, to wit, the second day of June Anno Regis 20. at H. aforesaid, by his certain writing, which the same Ia. with the Seal of the same Io. sealed here into Court bringeth, whose date is the same day and year released, remitted, and quit claimed to the same Ia. and his Heirs, his whole estate, right, title, interest, and demand of the same I. C. of and in the same six Acres of Meadow, with the appurtenances; By vertue whereof, the same James was, and yet is alone seised of the same six Acres of Meadow, with the appurtenances in his demeasne as of Fee. And the same James further saith, that by reason of the making of the said banck and obstruction, and filling up of the water-course of the same — the water in the same water course running, hath risen to such a height, and from day to day doth rise, and the banck of the water course, in the same six Acres of Meadow, and the soile thereof is so much washed, wasted, and consumed, and from day to day, doth more and more wash, waste, and consume: so that by the same washing, wasting, and consuming of the same soyl, the same six Acres of Meadow are moiltred, and torn a pieces, and from day to day, more and more, are consumed and wasted. And by the reason thereof the same Ia. no profit of the same six Acres of Meadow with the appurtenances,

Quod permittat.

could receive to the nocument of the free Tenement aforesaid in the same. And although the same James, the first day of *Febr. Anno &c. 20.* at *H.* aforesaid, and often times afterwards, requested the same *R. B.* that he would suffer the same James, to cast down the said Bank so to the nocument of the free Tenement of the same *I.* in form aforesaid made; Nevertheless the same *R. B.* the said *Ia.* to cast down the same Bank, hitherto hath not suffered, nor yet suffereth unjustly, to the damage of *Ia.* of 200 *li.* &c.

*Quod permittat
in common of
pasture.*

*Note the
Grant.*

M 4. and 5. *P.* and *Ma. Rot. 841. ff. T. P.* Knight, and *I. C.* Esquire, were summoned to answer *E. D.* Knight, of a Plea, that they suffer the same *E.* to have Common of pasture for eight Oxen in *H.* which he ought to have &c. And counts that one *H. de P.* Knight, was seised of the Mannor of *H.* in the same County in Fee; And that upon *VWednesday*, next after the Feast of the holy *Trinity*, *Anno 1. Edw. 3.* at *C.* in the County of *C.* by his certain Deed Chirographe, whole other part, with the Seal of the said *H.* sealed here in Court bringeth, whose date is the same day and year, by the name &c. gave, granted, and by the same his Deed, confirmed to one *I. D.* by the name &c. Common of pasture for eight Oxen, *in omnibus Dominis suis*, of his Mannor of *H.* as well in arable Lands, as in Meadows after the hay taken out of the same Meadows, to go and feed with his Oxen aforesaid, and other Cattle of his plow, or with any other Cattle into whose hands the Mannor aforesaid should come in any place, should depasture and feed in the same Mannor, with the appurtenances, To have and to hold, of the same *H.* his Heirs and Assignes to the same *I. D.* his Heirs or his Assigns, the said Common of pasture for eight Oxen, withall the appurtenances, commodities and easements, freely, quietly well and peaceably, wholly, and to inherit for ever, rendering 1 *d.* Rent yearly, at *Michaelmas*, with warranty against the Donor and his Heirs, *prout. &c.* of which said pasture the same *I. D.* was seised in Fee and right, in the time of peace, in the time of *Ed. 1.* taking thereof the profits to the value &c. And from the same *I. D.* the right descended to *I. D.* son and heir, &c. And by many descents to the demandant, as Son and Heir of the said *R.* which said *R.* was seised in Fee, in the time of peace, in the time of *H. 8.* taking thereof the profits, and the Tenants of *E.* do not suffer &c. to the damage of the said *E.* of 100 *li.* And thereupon bringeth suite &c.

The Tenants
plead to the
right, and put
themselves
upon the
grand Assise.

Tender of half
a Marke to en-
quire of the
seisin of the
Ancestor of
what &c. with-
in 60 years,

being the time of the limitation. Note that 22. *E. 3.* fol. 7. Pl. 19. *Droit.* Half a Mark was tendered for the time, &c. and it was there said, that if it were found that the Defendant was not seised within the time in which he counted, that final judgment should be given against him.

that

that they be here in *Off. Hillary*, to chooe of them, and others &c. to make the great Assize, &c. the same day is given, as well to the same *E.* as to the same *P. T.* and *I. C.* here to hear there of the election of the great Assize aforesaid, &c.

M 17. *I. Rot. 2901. s. Waller Suffex ff. G. B.* was summoned, to answer *W. S.* of a Plea, that he suffer the same *W.* to pull down the windows which *G. C.* of late unjustly, and without judgement, made upon the free Tenement, late of the same *G.* and now of the said *G.* and *L.* to the nocument of the free Tenement, of late of *L. S.* and now of *W.* in the same Town; And also certain Walls in *L.* aforesaid, which the same *G.* unjustly and without judgement, made to the nocument of his free Tenement in the Town aforesaid, within 30 years. And whereupon the same *W.* by *T. W.* his Attorney, saith, that whereas the same *L. S.* was seised of one Messuage, and one Courtlage to the same Messuage, lying with the appurtenances in *L.* aforesaid, in the same County of *S.* in his demeain, as of Fee: And being so thereof seised, the same *G. C.* the same 21 day of *Febr. Anno Regis. Eliz.* 28. unjustly, and without judgement made there, upon the then Tenement of the same *G.* and now of the said *Ger.* the windows aforesaid, so near the said Courtlage, that the same windows do over-hang a great part, to wit, four foot of the Courtlage aforesaid, so that the rain descending from the same Windows, the Walls of a well-house in the same Courtlage being, And also the soyl of the same Courtlage, doth greatly rend, moisten, putrifie, consume and waste, and from day to day, doth more and more rend, moisten, putrifie, consume and waste, to the nocument of the free Tenement, late of the said *L.* and now of the said *W.* And also the same *Ger.* within 30. years &c. unjustly, and without judgement there upon the Tenement, the Walls aforesaid, so near the Courtlage aforesaid, that the said Walls, to wit, two apperices of the said Walls, do hang over a great part, to wit, six foot of the said Courtlage, so that the rain from the same Walls descending, the said Walls of the Well-house aforesaid, in the same Courtlage being, and also the soyl of the same Courtlage is greatly rent, moistened, putrified, consumed and wasted, and from day to day, doth more and more rend, moisten, putrifie, consume and waste; And by that reason, the Courtlage aforesaid, all rainy weather, is moistened and over-flown, that the same *W.* inhabiting in the same Messuage, no profit and easment of the same Courtlage could receive, to the nocument of the free Tenement of the said *William* in the same Town. And although the same *W.* often requested the same *G.* that he would suffer the same *W.* to pull down the Windows and Walls aforesaid, so to the nocument of the free Tenement of the same *W.* in form aforesaid made; Neverthelesse the aforesaid *G.* the same *W.* to pull down the same Windows and Walls of the same *Ger.* hitherto hath not permitted, nor yet doth permit, unjustly to the damage of the said *W.* of 100 li. &c.

Quod permittat, to pull down Windows.

H 10. *Ca. Rot. 534. Moyl. Staff. ff. Gerrard, S. Esquire, and R. W.* were summoned to answer *John Cotes* Esquire of a Plea, that they suffer him to flat a certain pool in the Parish of *F.* which *T. G.* Knight deceased, unjustly and without judgment made, to the hurt of the free Tenement of late of *I. C.* Esquire, and now of the same *I. C.* Plaintiff, in the Parish of *S.* within 50 years now last past; And whereupon the same *I. C.* the now Plaintiff, by *I. B.* his Attorney saith, that whereas *T. S.* deceased in his life time, to wit, the first day of *May Anno &c. Ja. 16.* was seised of the Manor of *M.* and *F.* with the appurtenances whereof, one Water-mill, and 500 Acres of Land covered with water, called the great Mear, with the

Quod permittat.

appurtenances are, and the day and year abovesaid, and also from the time whereof the memory of man is not to the contrary, were parcel, in his demesne as of Fee. And whereas the same late *I. C.* deceased in his lifetime, to wit, the first day of *May*, Anno 16. abovesaid, was seised of, and in one Messuage, 20 Acres of Land, 40 Acres of Meadow, 40 Acres of pasture and 20 Acres of Moor, with the Appurtenances in the Parish of *G.* in the County abovesaid, in his demesne as of Fee; and whereas a certain Rivolet called *G.* from the time whereof the memory of man is not to the contrary, had, and held his right and ancient course between the banks and brinks on both sides of the same rivolet, running from a certain Village called *C.* in the County abovesaid, by its ancient course unto the same 500 Acres of Land covered with water, called the great Mear. And whereas another certain Rivolet called *C. Brook*, by the whole time abovesaid, likewise had and held its ancient, and right course between the banks and brinks on both sides the same Rivolet, directly from a certain village called *M.* in the County abovesaid, by his usual course unto the said 500 Acres of Land covered with water, called the great Meare, likewise running, which said several Rivolets so as abovesaid into the same 500 Acres of Land covered with water, called the great Mear, running themselves in the same 500 Acres of Land covered with water by the time abovesaid, mixed and made one flood, and from day to day contiguously mix and over-flow. And whereas a certain water-course called the Mear-Eye, from the same 500 Acres of Land covered with water, called the great Mear, with the Rivolets as abovesaid mixed, flowing between the wonted banks, and of a long time accustomed on both parts of the said water-course called Mear-Eye, unto the Mill abovesaid, by the whole time abovesaid was wont to run; out of which said water-course, called Mear-Eye, a certain out-let on the South west side of the same water-course called the Mear Eye, by the whole time abovesaid issued, by which said out-let the water-course called the Mear Eye, the same 500 Acres of Land covered with water, called the great Mear by shows of rain, or other inordinate issuings & exuberances from time to time discharged itself. And whereas a certain Close of pasture, called *Cowley-Hall Moor*, containing by estimation 16 Acres of Moor, parcel of the Tenements abovesaid, with the appurtenances, of late of the same *I. C.* & now of the same *I.* the Plaintiff, in the Parish of *G.* abovesaid, by the whole time abovesaid lay, and was situate near the same 500 Acres of Land covered with water, called the great Mear abovesaid; and also was and yet is near adjoining to the banks of the said Rivolet called *G.* on the South part of the same. And whereas also a certain Meadow called Mear Meadow, containing by estimation ten Acres of Meadow, parcel of the Tenements abovesaid, with the appurtenances, late of the same *I. C.* and now of the same *I.* Plaintiff in the Parish of *G.* abovesaid, by the same time likewise lay, and was situate near the same 500 Acres of Land covered with water, called the great Mear abovesaid, and likewise was and yet is near adjoining to the banks of the same Rivolet, called *C. Brook*, on the South side of the same Meadow called Mear Meadow, and lying on the South part of the same 500 Acres of Land covered with water, called the great mear. The same *T.* the first day of *July* Anno 17. *Ja.* at the abovesaid Parish of *F.* abovesaid, a certain pool 40. foot in length, & in height 5. foot over-thwart, and on both sides of the said out-let, and also in the banks of the said water-course called the Mear Eye, unto the Mill abovesaid as abovesaid, running on both sides of the Orifice of the said out-let, upon then the free Tenement of the same *T.* and now of the same *G.* and *R.* unjustly and without judgement made, whereby the passage of the same water there was very much straitned, and yet is, and by reason thereof, from his ancient & free course was & yet is hindred. And the same water

water into the same 500 Acres of Land covered with water called the great Mear; And from thence unto, and into, the said several Rivolets called G. and C. Brook was enforced to reflow, and to have its recourse, and from the making of the same Pool, from day to day is compelled, whereby the Rivolets aforesaid, and the said 500 Acres of Land covered with water, called the great Mear aforesaid, by the reflowing and swelling of the same water into the same, did over-flow and waste their respective banks, And from the making of the said Pool from day to day do over-flow and waste; And the said 16 Acres of Moor, and 10 Acres of Meadow, parcel of the Tenements aforesaid, of late of I. C. deceased, and now of the same I. Plaintiff, to the same several Rivolets as aforesaid, respectively near adjoining, by the reflowing, overflowing and swelling aforesaid, were, and are wholly drowned and wasted, to the nocument of the free Tenement, of late of the same I. C. and now of the same I. the Plaintiff. And although the same I. now the Plaintiff, hath often times requested the same G. & R. that they would suffer the same I. now Plaintiff to flat the same Pool, do to the hurt of the free Tenement late of I. C. deceased, and now of the same I. made, and by the same G. and B. maintained and preserved; Neverthelesse the same G. and R. the same I. to flat the Pool aforesaid, hitherto have not permitted, or yet do permit, unjustly to the damage of the same I. the now Plaintiff of 100 li. and thereof bringeth Suite, &c. The Defendants say *Alia non*, because they say, they did not make the Pool aforesaid to the hurt of the Free Tenement, late of the said I. S. & now of the same I. Plaintiff as the same I. now Plaintiff by his Writ and Declaration aforesaid above supposed, and of this &c.

Rescuffe.

M 3. and 4. *Eliz. Rot. 134. ff. W. P.* late of &c. And *VV. &c.* were Attached to answer I. C. of a Plea, wherefore, whereas the same Plaintiff in six Acres of Land, late of one T. B. at L. for a certain yearly Rent, being in arrear, and tied to the distresse of the same Plaintiff, for the Rent aforesaid, took certain Cattle of the same *VV.* And the same Cattle from thence to drive to P. and them in the name of a distress, according to the Law and Custome of the Lady the Queen of *England*, there to impound, intended the same *VV.* and R. with force and Arms the Cattle aforesaid from the same Plaintiff rescued, And other enormities, &c.

Count in Rescous for yearly Rent.

M 22. *H. 4. Rot. 209.* Wherefore, as the same Plaintiff in certain Tenements of the same B. for a certain yearly Rent to him, being in arrear, took certain Chattels of the same Defendant, and them in the name of a distress, according to the Law and Custome of the Lord the King of *England*, would have detained the same Defendant with force and Arms, took away, And other enormities, &c.

Otherwise for rescuing of Chattels for yearly Rent.

V u u u u 3

M.

Alt,

M. 12. *Edw. 4. Rot. 314.* And whereupon the same Abbot by *M. B.* his Attorney complayneth, that whereas he such a day and yeare, within his Fee, to wirt in *I. Mes.* with the appurtenances, &c. in *C.* aforelaid which the same Abbot together with Pasture to feed 200. Sheep of the same Abbot in *C.* aforelaid, the 8th, day of *October*, in such a yeare at *C.* in the County aforelaid, demised to the same Defendant to have and occupy to him and his Assignes from the same 8th, day of *October*, unto the end and terme of one yeare then next following, paying to the same Abbot, for the same 3. l. 10. s. at the Feasts of *Easter* and *St. Mich.* for the customes and services to wirt for 3. l. of the rent aforelaid unto the same Abbot, being due and in arreare by *T. P.* &c.

Not guilty in
rescous.

M. 6. *H. 8. Rot. 105.* And the same Defendant by *I. G.* his Attorney cometh and defendeth the force and wrong when, &c: and saith that he is in no wise guilty of the trespassse and rescous aforelaid, as the same Plaintiff above against him complained, &c.

Justification in
rescous as ser-
vant of the
Sheriffes Bail-
liffe by vertue
of a warrant to
the Sheriffe to
replevin Cat-
tle.

And the same *Jo. H.* and *D.* by *T. P.* their Attorney come and defend the force and wrong when, &c: And as to the coming with force and armes, not guilty and as to the residue of the trespassse & rescous aforelaid, *Actionem*, because they say that long before the same the time of the taking aforelaid, above supposed to be done the same *Jo.* was possessed of the Cattle aforelaid, in the declaration aforelaid, above specified, as of his proper Cattle, untill the same *Richard* in the declaration aforelaid likewise named, before the same time in which, &c: took the Cattle aforelaid, and unjustly detained them against suerties and pledges, &c: By which the same *Jo.* afterwards and before the same time in which, &c: at the County Court held at *L.* in the same County of *Sussex*, such a day before *R. S.* then Sheriffe of the same County, affirmed a certain complaint against the same *I. N.* of a plea of taking and unjust detaining of the Cattle aforelaid, &c: And prayeth replevment of the same Cattle to be made to him, and he found pledges to prosecute his complaint aforelaid, and for the having of the retorne of the Cattle aforelaid (if retorne of them should be adjudged to wirt *I. M.* and *E. D.* &c: By pre-text whereof the then Sheriffe by his certain warrant commanded *I. B.* Bayliffe of the Lord the King of his Rape of *Lewes* and *I. S.* Bailiffe of the same Lord the King itinerant sworn and known, &c: that justly and without delay they make Replevy of the Cattle aforelaid to the same *I.* And that he should put by pledges, and safe suerties the same *R.* that he should be at the next County Court of the same then Sheriffe at *L.* next to be held to answer to the same *I.* of that plea, &c: By vertue of which warrant as well the same Bailiffs as the same *I.* and *H.* and *T.* as their servant in aide of them the same time of the rescous aforelaid above supposed to be done came unto *G.* aforelaid where the same Cattle were taken in forme, as aforelaid, and the same *Jo. H.* then and there, shewed to the same Bailiffs his Cattle aforelaid, and requested them to replevy to him the Cattle aforelaid, according to the force, forme, and effect of the same Warrant, by which the same Bailiffs, and the same *H.* and *T.* as their Servants, and by their command then and there took the Cattle aforelaid and caused to be replevied and delivered to the same *Jo.* by vertue of the warrant aforelaid, which said deliverance or replevying of the same Cattle to the same *I. H.* in forme aforelaid made, is the same rescous, whereof the same Prior himselfe above complaineth, and this they are ready to verifie whereupon they pray Judgment, *Si Alio.* &c.

Of their own
injury abso-
lute causa,
&c.

And the same Prior saith that he ought not to be barred, because he saith that the same Defendants the same time in which, &c: with force and armes aforelaid of their proper injury, and without the cause by the same Defendants

dants above alleadged, rescued the Cattle aforesaid from the same *R.* at *O.* aforesaid against the peace of the Lord the King now, as the same Prior above against them complaineth, and this he prayeth may be inquired of by the Country, and the Defendants likewise. Therefore *I 2, &c.*

M 4. and 5. *Eliz. Rot. 1646. ff. W. I.* late of, &c: and *R. P.* late of, &c: were attached to answer *D. W.* gent. of a plea, wherefore whereas the same *D.* in certaine Lands which were lately of *H. C.* Esq. deceased at *H.* for a certain yearly rent, by a certain writing obligatory of the same *H.* tied to the distresse of the same *D.* to the same *D.* being in arreare, certaine Cattle for the same rent in the name of a distresse by *F.* caused to be taken, and the same *F.* the Cattle aforesaid, according to the law and custome of the Realme of the Lady the Queen of England would have impounded, the same *W.* and *R.* the Cattle aforesaid with force and armes rescued, and other wrongs, &c: And whereupon the same *D.* by *A. T.* his Attorney complaineth, that whereas the same *H. G.* was lately seised in his demeasne as of fee of and in 40. Acres of Land with the appurtenances in *H.* aforesaid, and the same *H.* to being thereof seised, 20. *Novemb. Anno 35. H. 8.* after the Conquest at *W.* by his certaine writing which the same *I. D.* with the Seale of the same *H.* sealed bringeth here into the Court, whose date is the same day and yeare, for divers good and reasonable causes and considerations, the same *H. C.* then specially moving, and especially in consideration of the good and faithfull Counsell, by the same *D.* by the name, &c: in times past given, and to be given gave and granted and by the same writing confirmed to the same *D.* a certaine Annuity or yearly Rent of 20. s. of good, &c: issuing and to be issuing out of the Tenements aforesaid with the appurtenances, by the names of all his Lands and Tenements with the appurtenances in *H.* in the County aforesaid, to have and receive the same Annuity or yearly rent of 20. s. to the same *D.* during his naturall life, to be paid to the same *D.* or his assignes, yearly at two termes in the yeare to witt, &c: by equall portions, and if it shall happen the same Annuity or yearly rent of 20. s. to be in arreare and unpaid in part, or in the whole, at any of the Feasts, &c: then liberty to distreine is granted, &c: As by the same writing more fully appeareth, by vertue of which said gift and grant, the same *D.* was seised of the same Annuity or yearly rent of 20. s. in his demeasne as of free Tenement, and the same *D.* being so thereof seised the first day of *June, Anno 3. Regin.* in certaine Lands which were lately of the same *H.* to witt in 12. Acres of Land at *H.* aforesaid for the yearly rent aforesaid, charged and tied to the distres of the same *I. D.* in form as aforesaid, being in arreare to witt for 13. l. and 10. s. for 13. yeares, and halfe of one yeare ended at the Feast of the Annuntiation, &c: next before the day of purchasing of the originall writt of the same *D.* to witt 6. *Junii, Anno 3. Eliz.* unto the same *D.* were in arreare and unpaid, certaine Cattle to witt two Oxen and four Cowes of the same *W. I.* by *A. F.* his servant caused to be taken, and them in the name of a distresse according to the law and custome of the Realme of the Lady the Queen of England then and there would have detained the same *R. P.* and *W. I.* the Cattle aforesaid, the same first day of *June, Anno Regin. 3.* aforesaid there with force and armes rescued, and other wrongs, &c.

And the same *W.* and *R.* by &c: come, &c: And as to the coming with force and armes not guilty, and as to the residue of the trespass and rescue aforesaid above supposed to be done, the same *W.* and *R.* say that *Actio non*, because protesting that the same *H. C.* did not give nor grant to the same *D.* the same Annuity or annuall rent of 20. s. as the same *D.* by his declaration aforesaid above supposed for plea, say that the same *W. I.* is and the same time wherein the trespass and rescue aforesaid were done, and long before

*The Defendants
justifie in another place, and
waivers the place
in the declaration.*

Rescuſie.

fore was ſeiſed of 10. Acres of Land with the appurtenances in *N.* in the County aforeſaid. And the ſame *W.* being ſo thereof ſeiſed, before the ſame time in which, &c. put the Cattle aforeſaid into the ſame 10. Acres of Land in *N.* aforeſaid to eate the graſſe then there growing, and the ſame Cattle were then eating the graſſe then there growing, untill the ſame *D.* the ſame firſt day of *I. An.* &c. aforeſaid the Cattle aforeſaid in the ſame 10. Acres of Land in *N.* aforeſaid unjuſtly, &c. by the ſame *F. A.* his Servant made to be taken whereby the ſame *W.* in his own right and the ſame *R. T.* as Servant of the ſame *W.* and by his command the ſame time in which, &c. the Cattle aforeſaid out of the poſſeſſion of the ſame *F. A.* at *N.* aforeſaid took and reſcued, as to them it was lawfull without that that they are guilty of the treſpaſſe and reſcue at *H.* aforeſaid above ſuppoſed to be done. As the ſame *D.* above againſt them complaineth, and this, &c. whereupon, &c.

Travers.

Issue upon the Travers.

The Plainiffe ſaith that he ought not to be barred, &c. becauſe he ſaith that the ſame *W.* and *R.* are guilty of the treſpaſſe and reſcue at *H.* aforeſaid don, and he above againſt them hath complained, and this he prayeth may be inquired of by the Countrey, &c.

Count.

M. 18. *H.* 8. *Rgt.* 528. *ſſ. T. G.* &c. was attached to answer *T. D.* Prior &c. of a plea wherefore whereas the ſame late Prior in his ſee at *A.* for cuſtomes and ſervices to him due, by *T. A.* his Bailiffe certaine Cattle cauſed to be taken, and the ſame *T. C.* the ſame Cattle according to the law and cuſtome of the Realme of the Lord the King of *England* would have there impounded, the ſame Defendant with force and armes reſcued the ſame Cattle, and other wrongs, &c. And whereupon the ſame Prior by *T. W.* his Attorney complaineth that whereas the ſame Prior, the 10. day of *Novemb.* Anno 5. *Dni. R.* in his ſee, to witt in one Meſ. and one garden with the appurtenances in *A.* aforeſaid, which ſaid Tenements with the appurtenances the ſame Defendant then held of the ſame Prior by fealty and rent of 10. s. every yeare at the Feaſts, &c. by equall Portions to be paid, of which ſervices the ſame Prior by the hands of the ſame Defendant, as by the hands of the true Tenant for cuſtomes and ſervices for 10. s. to the ſame Prior for one whole yeare ended at the Feaſt of *St. Michaell* the Archangell, next before the ſame 10. day of *Novemb.* Anno 5. aforeſaid due, by the ſame *T. T.* his Bailiffe certaine Cattle to witt two Cowes in the name of a diſtreſſe cauſed to be taken, and the ſame *T. T.* the ſaid Cattle according to the law and cuſtome of the Lord, the King of his Realme of *England* there would have impounded, the ſame Defendant, the ſame 10. day of *Novemb.* Anno 5. aforeſaid the ſame Cattle reſcued, and other wrongs.

Extra ſeod pleaded.

Defendant, as to the coming with force and armes not guilty, and as to the reſidue of the treſpaſſe aforeſaid above ſuppoſed to be done the ſame Defendant ſaith that the ſame Prior *Alio non*, becauſe he ſaith that the Tenements aforeſaid with the appurtenances are, and the ſame time wherein the ſame treſpaſſe was ſuppoſed to be done were out of the ſee & demeſne of the ſame Plainiffe, and this, &c.

Issue inſtrateod

The Plaintiff replyeth that he ought not to be barred becauſe he ſaith that the Tenements, &c. *tempore quo*, were within his ſee and memeaſne prout &c.

Count. in reſcous by husband and Wife for reſcued one to the Wife whiſt ſhe was ſole.

M. 7. & 8. *Eliz.* *Kot.* 1581. *ſſ. W. S. & M. I.* were Attached to answer *G. P.* and *Anne* his Wife of a plea, wherefore whereas the ſame *A.* whiſt ſhe was Sole damage feſant at *C.* in the Pariſh of *C.* by *J. T.* her Servant certain Cattle cauſed to be taken, the ſame *I.* the ſaid Cattle according to the Law and cuſtome of the Realm, &c. there would have impounded the ſame *W.* and *Ma.* the ſame Cattle with force and arms reſcued, And other enormities

enormities &c. And whereupon the same *E.* and *A.* by *L. T.* their Attorney complain, that whereas the same *Anne* whilst she was sole damage feasant, to wit, in 10 acres of Land in *C.* in the Parish of *C.* by *I. T.* her Servant the 22 day of *May, Anno 6. Regia.* certain Cattle, to wit, 2 Cowes, caused to be taken, the same *I.* the Cattle aforesaid according to the Law and custome, &c. would have impounded the same *w.* and *M.* the same day and year the Cattle aforesaid with force and Arms rescued, And other enormities &c. The Defendants as to the force and Arms, &c. not guilty. And of this, &c. And the same *G.* and *A.* likewise. And as to the residue of the trespassse and rescous aforesaid above supposed to be done, the same *w.* and *A.* say *Actio non*, because they say, that long before the same time in which the trespassse and rescous are supposed to be done, one *R. A.* was seised of the same 10 acres of Land, with the Appurtenances in his Demeasne as of fee. And being so thereof seised, the same *R.* before the same time in which &c. of the same 10 acres of Land, with the appurtenances infeofed one *I. P.* Esquire, to have to him and his heirs for ever. By vertue of which feoffment the same *I.* was seised of the same 10 acres of Land, with the appurtenances in his demeasne as of fee. And being so thereof seised, the same *I.* before the same time in which &c. to wit, the 20th day of *January Anno &c.* at *C.* aforesaid demised the same 10 acres of Land, with the appurtenances to the same *w.* to hold and occupy to him and his Assigns, from the same 20th day of *June Anno 1.* aforesaid, unto the end of the term of 8. years from thence next following and fully to be compleat and ended. By vertue of which demise the same *w.* was of the same 10 acres of Land with the appurtenances possessed; And being so thereof possessed, the same *w.* afterwards and before the same time in which, &c. put the Cowes aforesaid which were the proper Cows of the same *w.* into the same 10 acres of Land, with the appurtenances, to eat the grasse then there growing, untill the same *G.* and *A.* the same 22. day of *May, Anno 6.* aforesaid the same in their own wrong in the same 10 acres of Land with the appurtenances took, whereby the same *Walter* in his own right, and the same *Ma.* as Servant of the same *w.* and by his command the same time in which &c. rescued the Cowes aforesaid, As to them it was lawful. And this they are ready to verifie, whereupon they pray Judgment if Action, &c.

Second Deliverance.

Second Deliv-
erance.

Middlesex ss. Whereas *J. L.* was Attached by Writ of *Second deliverance* to be in Our Court before our Justices at *Westminster*, to answer *H. V.* of a Plea, wherefore he *6. Junii. Anno 21.* at *N.* upon the Kings high-way took the Cattle, to wit, 4 Oxen of the said *H.* and them unjustly detained against Sureties and Pledges as is said the same *I.* appearing in Our said Court for a certain reason by him in Our said Court alledged, well acknowledged the taking of the Cattle aforesaid for 22 s. for certain amercements imposed upon him in the Court-Baron of one *Io. B.* the younger, Knight, to the same *Jo. B.* at the time of the taking of the Cattle aforesaid, being in arrear unpaid, to be just, whereupon the same *H.* being solemnly called came not, nor hath prosecuted his said Writ. Therefore it is considered, that the same *H.* and his pledges to prosecute be thereof in mercy. And that the same *I. L.* go thereof without day, &c. And that he should have return of the Cattle aforesaid to hold to him irrepleviable for ever. And therefore we command you that without delay you make return of the Cattle aforesaid to the said *Jo. L.* to hold to him irrepleviable for ever. And how you shall execute this Our Command you make appear to Our Justices at *Westminster* in *OH. Hill.* We also command you, that by the oath of good and lawfull men of your County, you diligently inquire what damages the same *I. L.* hath sustained, Aswel by occasion of the premisses as for his costs, &c. And the Inquisition which you shall make thereof, you make appear to Our Justices at *Westminster* at the same term under your Seal and the Seals of them by whose oath you shall make that inquiry. And have you their names &c. *Teste &c.*

Count in Se-
cond deliv-
erance.

PAs. 14. *H. 8. Rot. 441. Worcest. ss. W. B.* was Attached by a Writ of the Lord the King of *Second deliverance*, to answer *I. W.* of a plea wherefore he took the Cattle of the same *John* and them unjustly detained against Sureries and Pledges &c. And whereupon the same *I.* by *I. B.* his Attorney complaineth, that the said *William* the 30th day of *August Anno 6th c. 13.* at *C. M.* in a certain place called *W.* took the Cattle, to wit, 12 Oxen of the same *John* of them unjustly detained against Pledges and Sureties untill &c. whereupon he saith he is the worse, and hath damage to the value of 40 l. And thereupon he bringeth Suit, &c.

Place trav-
ersed.

And the same *W.* by *W. C.* his Attorney cometh &c. And saith, that he at the time of the taking aforesaid above supposed to be done took the Cattle aforesaid at *E.* in the County aforesaid in a certain place there called *H.* without this, that he the same time
of

of the taking aforesaid above said supposed to be done took the Cattle aforesaid at *C. M.* in the same place called *W.* as by the declaration aforesaid is above supposed. And this he is ready to verifie, whereupon he prayeth Judgment of the declaration aforesaid. And to have return of the Cattle aforesaid, the same *William* as in the right of *Alice* his wife well avoweth the taking of the Cattle aforesaid in the same place called *H.* in *E.* aforesaid and justly &c. because he saith, that he and the same *Alice* are, and the same time in which &c. were seised of the Mannor of *E.* in the County aforesaid, with the appurtenances whereof the same place called *H.* in which &c. is, and the same time of the taking aforesaid supposed to be done was parcel in their demesne as of fee in the right of *A.* And being so thereof seised, the same *W.* the same time in which &c. found the Cattle aforesaid in the same place called *H.* eating the grasse there growing, and doing damage, whereupon the same *William* the Cattle aforesaid so doing of damage, then in the same place called *H.* took, As to him it was lawfull. And this he is ready to verifie, whereupon he prayeth Judgment and return of the Cattle aforesaid to him to be adjudged, &c.

And the same *John* saith, that the declaration aforesaid for the reason before alledged ought not to be quashed, because he saith, that the same *W.* the same time in which &c. took the Cattle aforesaid at *C. M.* aforesaid in the same place called *W.* as he by his declaration aforesaid above supposed. And this he prayeth may be inquired of by the Countrey, and the same *W.* likewise. Therefore xij. &c.

Scire facias.

H. 20. *Ja. cum Brownlow. Warr. B.* Whereas of late We have commanded Our Sheriffs of *London* by Our Writ, That by honest and lawfull men of their Bailiwick, they should make known to the Tenants of the Lands and Tenements which were of *F. B.* late of *W.* in the County of *Suff.* Esquire, otherwise called &c. in fee-Simple *xv. nam. Martini Anno 42. Eliz.* which day the same *E. G.* in the Court of the said Lady the Queen of the Common-Bench at *Westminster* before *Edmund A.* Knight, and his Associates, Justic. &c. by the consideration of the same Court recovered against the same *Fr.* aswell a certain debt of 24 l. as 6 l. which to the same *Fr.* in Our said Court were adjudged for his damages, which he had by occasion of the detaining of the said debt whereof he is convicted

X x x x x 2

victed

Scire facias
after Sci. fac.
to Terr. Tenants.

Scire facias.

victed, or at any time afterwards in your Bayliwick, that they should be before Our Justices at *westminster* in *OEt. Pur.* last past; to shew if they knew or had any thing to say for themselves wherefore the debt and damages aforesaid of the Lands and Tenements which were of the same *Francis* at the time of the Judgment aforesaid given, or at any time afterwards in the Seizure of the same Tenants in your Bayliwick ought not to be made and rendred to the same *Fr.* according to the form of the recovery aforesaid, if to them it should seem expedient. And Our said Sheriffs of *London* to Our said Justices at *westminster* at that day returned that there were not any Tenants of any Lands or Tenements which were of the same *Fr.* at the time of the Judgment aforesaid given, or at any time afterwards who had any thing where or by what they could make known unto them, whereupon it was testified in Our said Court on the behalf of the said *E.* that there are divers Tenants of divers Lands and Tenements which were of the said *Fr.* at the time of the Judgment aforesaid given in the County of *Suff.* which the same Sheriff might make known unto. Therefore it was commanded to the same Sheriff of *Suff.* that by honest and lawfull men of his Bayliwick he make known to the Tenants of the Lands and Tenements which were of the said *Fr.* in Fee-Simple in the same *xv. nam. Martini Anno 42.* aforesaid, that they should be before Our Justices at *westminster* *xv. nam. Pas.* last past, to shew if they had or knew any thing wherefore the debt and damages aforesaid of those Lands and Tenements ought not to be made and rendred to the same *E.* And Our said Sheriff of *Suff.* to wit, *W. W. Esq.* to Our said Justices at *westminster* at that day returned, that by *P. K.* and *L. S.* honest, and lawfull men of his Baliwick he made known to *F. B.* Tenant of the Mannour of *P. H.* with the appurtenances in *W.* in the County of *S.* aforesaid, and to *R. L. Gent.* Tenant of the Rectory of the Church of *L.* in the County of *S.* which were of the same *F. B.* at the time of the judgment aforesaid, given to be before the same Justices at *westm.* at the same day to shew in form aforesaid. And that there were no other Tenants of the Lands and Tenements which were of the same *Fr. B.* in his Bayliwick to whom he could make known. And the same *F. B.* and *R.* at the said *xv. nam. Pas.* appearing in our said Court, said that the same Execution against the same *F.* of the Mannour aforesaid, with the appurtenances, and against the same *R.* of the Rectory aforesaid with the appurtenances ought not to have, because the said, that the day of purchasing of the said writ of *Scire fac.* directed to the Sheriff of *Suff.* to wit (such a day and year) one *T. B. Gent.* was Tenant as in his free Tenement of the Mannour of *E.* otherwise *E.* Court with the appurtenances in your County of which said Mannour with the appurtenances, the same *Fr. B.* in *xv. nam. Martin. Anno 42.* aforesaid, which day the judgment aforesaid was given, was seized in his Demeasne, as of fee, which said Mannour

Mannour of *E.* otherwise *E. C.* with the appurtenances is chargeable to Execution of the Judgment aforesaid, with the Mannour and Rectory aforesaid. And this they were ready to verifie, whereupon for that aswell the said Mannour of *E.* otherwise *E. C.* as the said Mannour of *P. H.* with the appurtenances, whereof the same *Fr. B.* was returned Tenant, and the Rectory aforesaid, with the appurtenances whereof *R. L.* was returned Tenant are chargeable with the payment of the debt, and damages aforesaid, the same *Fr. B.* and *R. L.* pray judgment, And that they may not further answer to the same Writ of *Scire fac.* against them in form aforesaid brought, before the same *T. B.* by our Writ of *Sci. fac.* be premonished to shew wherefore execution of that Mannour, together with the Mannour and Rectory aforesaid, with the appurtenances ought not to be made. Therefore we command you, that by honest and lawfull men of your Bayliwick, you make known to the same *T. B.* Tenant of the same Mannour of *E.* otherwise *E. C.* and to all other Tennants of the Lands and Tenements which were of the same *F. B.* in fee simple in you County, in the same xv. *Martin. Anno. 42.* abovesaid, that they be before our Justices at *westmin.* in *Oct. Hill.* to shew if any thing, &c. Wherefore the debt and damages aforesaid, of the same Mannour of *E.* otherwise *E. C.* and of all other Lands and Tenements which were of the same *Fr.* at the time of the judgment aforesaid given, or at any time afterwards, together with the same Mannour of *P. H.* and the Rectory ought not to be done according to the form of the Recovery aforesaid, if to them it shall seem expedient. And have you there the names of them by whom you shall make it known unto them. And this writ, &c.

s. **B** Rownlow London *ss.* whereas *A. M. Gent.* and *W. H.* late *Scire facias*
of the Parish, &c. otherwise, to wit, the 29. day of *June, Anno 8c. 21.* before *H. H. Knight* and Baronet, our Chief *against Manu-
captors,*
Justice of the Common Bench at his Chamber in Serjeants Inne, London, undertook, and both of them have undertaken, to wit, the same *A.* in the sum of 160. l. and the same *William* in the sum of 80. l. that he the said *Arthur* should appear in our Court before our Justices at *westmin.* in his proper person, or by his sufficient Atturney in Law to the Action or Writ of one *Richard Smith* against the same *Arthur*, of and upon an Action of debt upon demand of 80. l. before 8. *Mich.* then next comming, to be brought, and in our said Court before our said Justices at *westmin.* to be prosecuted. And to answer to the same *R.* in the same plea. And also if it shall happen judgment after the appearance of the same *Arthur*, in the same Court, made in the same Plea for the said *Rich.* against the same *Arthur*, to be given to satisfie the same *Rich.* of the debt, and damages for the said *R.* against the same *A.* in the same Court, in the plea aforesaid to be recovered, or adjudged, or that he the same *Arthur* shall render himself prisoner

Scire facias.

to the *Fleet* for that occasion, which said sum of 160. l. the same *Arthur* acknowledged to be made of his Lands and Chattels, and which said 80. l. the same *W.* acknowledgeth to be made of his Lands and Tenements, and to the use and behoof of the same *R.* in form aforesaid to be levied. If it shall happen the same *A.* in any of the premisses to make default, and thereof lawfully to be convinced, which said recognizance in form aforesaid taken the same chief Justice, afterwards, to wit, the 30. day of *June* then next following in our said Court by his own hands delivered it to be enrolled, and now there before our Justices of the Bench aforesaid, at *westmin.* aforesaid, in the term of the holy *Trinity*, *Anno* 21. above said, is inrolled, of which said plea of debt, a certain plaint before them was levied in our said Court before *Io. H.* Esquire, then being one of the Sheriffs of *London*. And the same plaint by our Writ, by our command before our said Chief Justice at his Chamber aforesaid, was sent and had as by the Record and proceedings thereof in our said Court before our Justices at *westmin.* aforesaid, remaining clearly appeareth. And although the same *R.* before the same 8. *M.* to wit the 17. day of *September*, *Anno* 21. above said, our certain originall Writ of a Plea of debt of 80. l. against the said *A.* in our Court of Chancery at *westminster* aforesaid then being before our Justices of the Bench at *westminster* aforesaid, in *Oct.* *Mich.* then next following returnable, and returned, commenced. And the same *A.* at the same *Oct.* *Mich.* by *John R.* then his Attorney to the same Writ of debt aforesaid by the same *R.* against the same *A.* in form aforesaid, brought according to the form of the Recognizance aforesaid appeared. And afterwards to wit, in *Octob. Hill.* then next following the same *A.* as well in the same 80 l. of the debt aforesaid, as in 7 l. which to the same *R.* in the same Court were adjudged for his damages which he had by occasion of the detaining of that debt whereof he was convicted and Judgment thereupon against the same *A.* for the same *R.* in the same plea in our said Court is given, As by the Record and proceedings therein in Our said Court before Our Justices at *westminster* remaining manifestly appeareth. Neverthelesse the same *A.* his body in execution upon the Judgment aforesaid in Our said Court at the said *Oct.* *Hill.* hath not rendred, nor to the same *R.* for the debt and damages aforesaid satisfied. And because We will that such things which before the said Lord Chief Justice are rightly acted and acknowledged be duly executed, We command you that by honest &c. you make known to the said *Arthur* and *William*, that they before our Justices at *westminster* *quinq; Pas.* to shew if any thing &c. to wit, the said *A.* wherefore the same 160 l. by the same *A.* in form aforesaid acknowledged of his Lands and Chattels ought not to be made. And the same *W.* wherefore the same 80 l. by him in form aforesaid acknowledged of his Lands and Tenements, and ought not to be rendred

rendred to the same R. according to the form of the Recognizance aforesaid if &c. And have you there the names, &c. And this Writ, &c.

H. 25. H. 8. Rot. 450. the Sheriff was commanded, That Scire facias by Executors against Executors, whereas *W. M.* Citizen and Mercer &c. and *A. C.* Widow, Executors of the Testament of *R. S.* late Citizen &c. lately called &c. and *A. S.* his wife lately in the Court of the King now, to wit in *Mich.* Term Anno 25. before *K. N.* Knight, &c. by the consideration of the same Court had recovered against *I. M.* late of *S.* &c. Executor of the Testament of *Jo. M.* Gent. aswell a certain debt of 40 l. of the Goods and Chattels of the same *W.* as 40 s. of the Goods and Chattels of the same *W.* if he shall have so much thereof. And if not, &c. of the proper Goods and Chattels of the same *Jo.* to be levied, which to the Executors of the same *Ro.* in the same Court of the King here were adjudged for their damages which they had by occasion of the detaining of the said debt whereof he is convicted, &c. As by the Record and proceedings therein in the Court of the King here remaining manifestly appeareth, Execution notwithstanding of the Judgment aforesaid yet remaineth undone. And the same *A.* after the Judgment aforesaid given, took to husband one *R. H.* as by the Information of the same *W.* and the said *R.* and *Anne* to the King is made known. And because &c. that by honest &c. you make known to the said *Jo.* that he should be here at this day, to wit, in *Ostab. Par.* to shew if any thing &c. wherefore the said *Walter R.* and *A.* execution against him for the debt and damages aforesaid ought not to have &c. according to the form of the Recovery aforesaid, if &c. And now here at this day came aswell the said *W. R.* and *A.* by *E. P.* their Attorney, as the same *Jo.* by *R. C.* his Attorney. And hereupon the same *W. R.* and *A.* bring here into Court the Letters testamentary of the same *Ro.* by which it sufficiently appeareth to the Court here the same *W.* and *A.* to be Executors of the Testament of the same *Ro.* and thereof to have Administration, &c. And pray execution against the same *Jo.* of the debt and damages aforesaid to them to be adjudged, &c. imparlance &c.

London. Whereas the 18. day of *Decemb.* Anno &c. 26. E. P. Sci. fac. out of Chancery. late of &c. Gent. *R. T. de H. &c.* and *R. L. de K. &c.* before Us in Our Chancery personally appointed to be, acknowledged themselves, and every one of them acknowledged himself to owe to *Io. W.* Citizen and Haberdasher of *Lond.* 120 l. of good and lawful money of *England* which they ought to pay unto him at the Feast of the Nativity &c. then next coming, as by the inspection into the Rolls of *Chancery* it appeareth to us, and the same to him they have not paid, nor any of them hath yet paid as is said, We command you that you make known to the same *E. R.* and

Scire facias.

and R. that they be before us in our said Chancery in *Oct. Mich.* next coming, wherefoever it shall then be, to shew if they have or know any thing, wherefore the same Moneys of their Land and Chattels ought not to be levied, and delivered to the same *John* according to the form and effect of the same Recognizance: And have you there the names, &c. as above.

Scire facias,
upon a fine
levied.

β. Otherwise as it appeareth in the term of the holy *Trinity*, *Anno Regis. 7.* it is thus conteyned. It was commanded the Sheriff, whereas a certain Fine had been levied in the Court of the Lord *E.* late King of *England* the third after the Conquest at *Westminster*, to wit, *ires Pas. Anno 5.* before *R. B. W. S. W. W. R. de K. et R. de F.* then Justices, and afterwards in the Court of King *Richard* the second in *Oct. Hill.* in the year of the Reigns of the same late King of *England* and *France* the first granted and recorded before the same *R. B. W. S.* &c. then Justices, and others of the same late King *R.* faithfull people then there present between *R. de T.* and *O.* daughter of the same *H.* Knight, plaintiffs by *Io. Rede.* put in the place of the same *O.* to gain or loose, and *G. B.* Parson of the Church of *B.* deforceants of the Mannours of *B. S. S.* and the *Ile* of Island of *S.* with the appurtenances, and of one Messuage, &c. with the appurtenances in *S.* and of the advowson of the Church of the said Mannour of *S.* which *G. T.* and *M.* his wife then held for term of the life of the same *M.* whereof a plea of Covenant was Summoned between them in the same Court to wit that the same *G.* granted, &c. [Recite the whole fine.] And now by the information of *H. C.* Esquire of Consanguinity, and heir Male of the same *T. T.* of his body begotten, the Queen knoweth that the same *Margaret* is dead, and that the same *R.* and *M.* without heir Male of the bodies of the same *R.* and *M.* begotten, and that every one of the same *W. N. R.* and *W.* are dead without heirs males of their bodies begotten. And that the same *T. C.* is dead, and that *R. B.* Esquire *E. P.* Knight, &c. (and many others) into the Mannours and Tenements with the appurtenances, and the advowson aforesaid, are now entred, and hold them against the Fine aforesaid. And because, &c. that by honest, &c. he should make known to the same *R. E.* &c. and others that they should be here at this day, to wit, *xv. Pas.* to shew if any thing, &c. wherefore the said Mannours and Tenements, with the appurtenances, and the advowson aforesaid which they hold in form aforesaid, after the death of the same *M. R. T.* and others, to the same *Henry* ought not to remain according to the form of the fine aforesaid; for that the same *M.* and *T. C.* are dead and the same *R. I.* and *E.* died without heir Male of the body of the said *R.* and *E.* coming and every of the said *W. N. R.* and *W.* are dead without heir of their bodies begotten. And now here at this day came the same *Henry*, by *W. H.* his Attorney, as the same *R. E. T. T.* and others premonished,

premonished, &c. by *W. L.* their Atturney. And the Sheriff now returneth that he made known to the same *R. I. E.* and *M. I. D. B.* &c. of being here at this day, to shew in form aforesaid, by *I. B.* and *I. G.* honest, &c. And hereupon the same *H.* saith that he is of blood, and heir male of the same *T. C.* of his body begotten, to wit Son of *John*, Son of *Philip*, &c. and prayeth against the same *R. E. I.* &c. Execution of the Mannors and Tenements, aforesaid, with the appurtenances, and of the advowson aforesaid, according to the form of the fine aforesaid, to him to be adjudged, &c.

TO the Sheriff of *Norff.* Greeting; Whereas one *J.* late Prior of the Monastery of *P.* in our Court before *R. R.* Knight and his associates, our Justices at *Westminster*, to wit, in *Mich.* term, *Anno* &c. 6. had recovered against one *Alex. T.* &c. Clerk otherwise called, *A. T.* Parson of the Church of *F.* a certain yearly rent of 100. s. to the said Prior, and his Successours every year at the Feasts of *Easter*, and *St. Michael*, by equal portions to be paid, as by the record, and proceedings thereof in our said Court, before our Justices at *Westminster*, remaining manifestly appeareth, Neverthelesse 20. l. of the Arrerages of the yearly rent aforesaid, after the judgment aforesaid given, for four years last past, to *Ro.* now Prior of the Monastery aforesaid, Successour of the said late Prior, are in arrear and not paid, as by the information of the same now Prior we understand. And because we will that those things which in our said Court have been rightly acted be duly executed, we command you that by honest and lawfull men of your County, you make known to the same *Alex.* now Rector of the Church of *F.* aforesaid, that he be before our Justices at *Westminster* in *Oct. Pur.* to shew if any thing he know or can say for himself, wherefore the said 20. l. of the yearly rent aforesaid, of his lands and chattels in your Bayliwick to be made, and ought not to be rendred to the same now Prior, according to the form of the Recovery aforesaid, if to him it shall seem expedient. And have you there the names of those by whom you shall make it known unto him, and this Writ, &c.

Scire facias
for an Annual
rent.

Devon. B.

THe Sheriff was commanded whereas a certain fine was levied in the Court of the Lord *E.* late King of *England*, the fourth, progenitor of the Lord the King now here, to wit, at *Westminster*, before *Tho. Bryan* and his associates, &c. between *Jo. T.* Esquire, plaintiffe, and *T. M.* and *M.* his wife deforcants of the moyety of one Messuage, 24. Acres of Land, 6. Acres of Meadow, 20. Acres of Pasture, and 40. Acres of furze, and heath, with the appurtenances in *L.* whereof a plea of Covenant was summoned, between them, &c. (recite the fine wholly.)

M. 4. H. 8. rot.
552.

Yyyyy

And

Scire facias.

and now by the information of *T. T.* of consanguinity and heir of the same *John* to the King is made known, that the same *Ma.* died without heir of her body coming. And that the same *Tho. Maynard* likewise died, and that one *W. W.* is entred into the moyety aforesaid, with the appurtenances, and holdeth the same moyety, with the appurtenances against the form of the fine aforesaid. And because, &c. that by honest, &c. you should make known to the same *W.* that he should be here at this day, to wit, *xv. nam. Pas.* to shew if any thing, &c. wherefore the same moyety with the appurtenances, which he in form aforesaid holdeth, after the death of the same *M.* to the same *T. T.* ought not to revert according to the form of the fine aforesaid, if &c. for that the same *M.* died without heir of her body coming. And now here at this day came aswell the said *Thomas T.* by *C. H.* his Attorney, as the same *W. W.* by *John Ford* his Attorney, and the Sheriff now returneth that he made known to the same *W. W.* of being here at this day, &c. to shew in form aforesaid, by *W. D. I. P. I. P.* and *R. L.* honest, &c. whereupon the same *T. T.* demandeth against the same *W. W.* execution of the moyety aforesaid according to the form of the fine aforesaid, &c. And hereupon *W. W.* prayeth licence to imparle untill *Ostob. Trin.* and hath it, &c.

Plea in a Scire facias upon a fine levied.

And the same *W. W.* saith that *T. T.* execution of the moyety aforesaid with the appurtenances against him ought not to have, because as to the moyety of the moyety aforesaid the same *T. H.* now demandant after the death of the said *Th. & Mar.* was seised of that moyety with the appurtenances in his demesne as of fee according to the forme and effect of the fine aforesaid, and this he is ready to verifie, whereupon he prayeth Judgment if the said *T. T.* now demandant execution thereof against him ought to have or maintain &c. And as to the residue of the said moyety aforesaid, the said *W. W.* saith, that the said *Jo. T.* Esquire, *T. T.* and *Margery*, who by the fine aforesaid are supposed to be parties of the said Fine, had nothing in the said residue, with the appurtenances at the time of the levying of the said Fine, one *C. W.* was thereof seised at the time of levying of the said Fine in her demesne as of fee. And being so thereof seised, took to husband one *John Chapman*, and they had issue between them one *Alice C.* whereby the same *Jo. C.* was seised of the said residue in his demesne as of fee in the right of the same *C.* And so thereof seised, the same *Ch.* dyed, and the same *Jo. C.* survived her, and kept himself within, and was Tenant thereof by the Law of the Land. And afterwards the same *Alice* had issue the same *W. W.* and now Tenant and dyed; after whose death the reversion thereof descended to the same *William* now Tenant as sonne and heir of &c. And the said *Jo. Chapman* at *H.* in the Countie aforesaid likewise dyed, after whose death the same *W. W.* as Son and heir of the said *Alice*, into the residue aforesaid with the appurtenances

Tenant by
Curtesy of
England.

purtenances entred, and was thereof seised in his demesne as of fee. And this he is ready to verifie, whereupon he prayeth Judgment if the said *Tho.* execution against him thereof ought to have &c.

And the said *T. T.* saith, that he was never seised of the moyety aforesaid in the said first barr specified after the death of the same *T.* and *Ma.* as the said *W. Ward* above by pleading hath alledged. And this he prayeth may be inquired of by the Countrey. And the same *William* likewise. And as to the residue of the said moyety in the second barr specified, the same *T. T.* saith, that at the time of the levying of the said Fine, the same *T. T.* Esquire, *T. M.* and *Mar.* who were parties to the same Fine, were seised of the same residue with the appurtenances, whereupon execution against the same *W. W.* in form aforesaid is now followed by him as by the Fine aforesaid is supposed. And this he prayeth may be inquired of by the Countrey. And the same *W.* likewise. Therefore as to try the issues aforesaid above joyned, and put upon the Countrey, the Sheriff is commanded that he cause to come here in *Oh. Hill.* xii. &c. by whom &c. And who neither &c. to recognize &c. because as well &c. *Alias ve fac.* awarded retornable xv. *Hill.* of the neighbourhood of *L.* whereof every one &c. And who neither to *T.* nor the same *W. W.* are of any affinity, to recognize upon their oath if the same *T. T.* in our Court before &c. do suppose a certain Fine to be levied in the Court of the Lord *E.* late King of *England* the 4th our progenitor at *westminster* before *T. B.* and his Associates then Justices of the said late King and other faithfull people of the said Lord the King then there present, between *I. T.* Esquire plaintiff, and *T. M.* and *Margery* his wife deforcants, of the moyety of one Messuage 24 acres of Land, 6 acres of Meadow, 20 acres of Pasture, and 40 acres of Furze and Heath, with the appurtenances in *L.* whereof a plea of Covenant to have been summoned between them in the same Court of the said Lord the King, to wit, that the same *I. T.* and *M.* have acknowledged the same moyety with the appurtenances to be the right of the same *I.* as that the same *Io.* to have had of the gift of the same *T.* and *Ma.* and the same to have remised and quitted claimed &c. and so recite the whole Fine &c. by which the same *T. T.* execution against the same *W.* by vertue of the same Fine ought not to have, as the same *William* saith, or not, or as the same *T. T.* saith. And whether as the same *William* in Our said Court by pleading supposeth the same *Io.* *T.* Esquire, *T. M.* and *Ma.* who by the fine aforesaid are supposed parties to the same Fine, to have had nothing in the same residue, with the appurtenances at the time of the levying of the said Fine aforesaid — one *Ch. Ward* to have been thereof seised at the time of the Fine aforesaid levied in her Demesne as of fee. And being so thereof seised to have taken to her husband one *Io. C.* and to have

Scire facias.

had issue between them one *Alice Ward*, whereby the same *I. C.* to have been seised of the same residue in his demesne as of fee in the right of the same *C.* And so thereof seised the same *C.* to have dyed, and the same *Jo. C.* to have survived her, and to have kept himself within as Tenant thereof by the Curtesie of *England*. And afterwards the same *Alice* to have had issue the same *W. W.* now Tenant, and to have dyed, after whose death the reversion thereof to have descended to the same *William* now Tenant, as son and heir of the same *Alice*, and the same *Io. Ch. at H.* in the County aforesaid to have dyed, after whose death the same *W. W.* as son and heir of the said *Alice* into the residue aforesaid, with the appurtenances to have entred, and to have been thereof seised in his demesne as of fee, the same *T. T. Esquire, T. M. and Ma.* who were parties to the Fine aforesaid, were seised of the residue of the moyety aforesaid, with the appurtenances, at the time of the fine aforesaid levied, whereby the same *T. T.* execution against the same *William* for the residue of the moyety aforesaid by vertue of the fine aforesaid ought to have, as the same *T. T.* who in his demand saith or not, or as the said *William* saith, because aswell the said *William Ward* as the said *Thomas T.* between whom &c.

Replevin.

T. 13. Ja. rot. 648. Brownlow Devon H. JT, and WM were summoned to answer DH of a plea wherefore, &c. And count for that the Defen such a day such a year, &c. at S within the Burrough of P in a certain place there called S Park, took the Cattel, to wit, &c. of the plaintiff, &c. And the same J and W by LD their Attourney come, &c. And hereupon came here into Court the Mayor and Cominallty of the Burrough of the Lord the King of Plymouth, in the County aforesaid, by JK their Attourney, to demand all their liberties, challenge prosecute and defend, and pray therein to have their liberty, to wit, to have the Conifance of the plea, before the same Mayor and Burgesfles, who for the time are, in the Guild Hall of the same Burrough, pleaded, to hear hold and determine, because they say that the said Lord Hen. late King of England the 6 by his Charter under his great Seal of England, by the consent of the Lords Spiritual and Temporal, in the Parliament of the said late King at Westminster then late convened, and from thence unto the Town of Reading adjoined, at the special request of the Commons of England, of the said Lord the King in the same Parliament being, for grand necessary and notable Causes, the same late King in the same Parliament specially moving, by the consent and request aforesaid, by the Authority of the same Parliament, the Town of Sutton Prior and the Tything of S R parcel of the hamlet of Sutton V, and a certain parcel of the Tything of Compton in the County of Devon, the same Burrough of Plymouth for ever to be nominated and called, and the same Burrough by one Mayor and perpetual Cominallty, at and during all times then to come to be incorporated; And the same Burrough of certain Lands and Tenements, and other Possessions, to the same Mayor and Cominallty of the same Burrough perpetually to be possessed, by the Authority of the Parliament hath caused to be indowed, as in the same Act of Parliament more fully appeareth; and the said Lord the late King specially noting, for as much as the same Burrough is so neer situate to the Shore and Coast of the Sea, and whereas the same Burrough and the Inhabitants thereof, for that reason, not only for the preservation and defence of the Country adjoining to the same Burrough, and of the liege people of the said late King there then abiding, but also the necessary opportunity for Foreign and Domestick Merchants, and others thither from thenceforth afterwards, being willing to have recourse, of his intimate propensity being graciously pleased, And also that his peace and other Acts of Justice, without any further deferring or delay, might there be done and kept, the same Burrough with divers Liberties and Privileges, as much as in him was, by his gracions favours in that behalf willing to assure, of his special grace would, and the same of his certain knowledge for him and his heirs as much as in him was, granted to the same Mayor and Cominallty of the same Burrough, and their Successors for ever, that they and their Successors amongst other things shall have the Cognizance of all pleas, as well real of whatsoever Lands or Tenements being within the Burrough aforesaid, and precincts of the same, as personal and mixt in whofoever Cases within the same Burrough, and precinct of the same, from thence afterwards arising and proceeding from every Cause, as well in the Court of the said late King, before the same late King and his Successor, as in the Court of the said Lord the King his Heirs Successors, before the Justices

Count in Replevin.

Note that if a Replevin be brought against a feme covert, & an estranger it shall abate against the feme and shall be good agst. the other. If Replevin be by plaint, it ought to be removed into the Common-pleas, and not into the Kings Bench; but if it be by writ it may be removed into the Kings Bench. The Mayor and Burgesfles of Plymouth by their Attourney demand Cognizance of plea, for that the place in the declaration, as with in their jurisdiction, their Charter granted.

T. 16. Eli. rot. 160. the Bish. of Bath & Wells prays Cognizance of the plea in Debt, and shall have a Writ to allow of his Charter.

P. 33. Eli. rot. 39 Cognizance of the plea allowed.

P. 16 H. 7. rot. 25. Cognizance of the plea allowed to the Abbot of B in S. See the old Book Natura brevi. fo. 3. the time when the Conifance of

the plea shall be demanded and allowed. T. 19. Eli. rot. 102. liberty of Romney marsh allowed. P. 15 H. 8. rot. 138. T. 16. Ja. rot. 1760. liberty de S upon a H. Jur. in an ejfionne firme, of tenements in S.

AAAAA

of

Maioꝛ and Bailiffs of Oxford.
P 44 Eli. rot.
1145. liberty of Guildford in Surrey allowed in the Common-Bench.
P 8 H 7. rot.
126. Conuſance of plea allowed in Parliament by the Citizens of Cant. &c.

The place in which, &c. is within the jurisdiction of the Maioꝛ. Judgment that the said Corporation have their Conuſance. Day given to the parties before the Maioꝛ, &c.

Count in Replevin:

The defend. makes Conuſance, as Bailiff of ID for 5 years atterages of rent charge in ſee arrear.

of the Common-Bench, Treasurers and Barons of the Exchequer, Juſtices to take the Aſſizes, and assigned to hear and determine Attaints and Certificates, or assigned before the Sherward and Marshal of his House, his Heirs and Successors, then moved or afterwards to be moved, before the Maioꝛ and Burgesſes aforesaid, who for the time should be in the Guild Hall of the same Burrough, pleaded, held, heard and determined; And that the same Maioꝛ should hold, and determine in the same manner, and for and waies, as the Bailiffs of the Town of Oxon, ſoꝛnly and ſoberly, after such Conuſances to them in the Court of the said late King should be allowed, ought to hear hold and determine such pleas, or may in any manner: And bringeth here into the Court the Charter aforesaid, testifying the premises. And the same now Maioꝛ and Commons, further say, that that liberty in times past, thereupon in that same Court, to wit, in the time of the late King Henry the 6, before his Juſtices of the Common-Bench, Term. An. &c. 19. rot. 133. was allowed, to wit, in a certain plea of Debt, whereupon one NP in the County aforesaid Merchant, was summoned to answer P B of London Goldsmith of a plea, that he render unto him 30 li. which he the first day of October An. R. &c. 19 At the Burrough of Plymouth, had borrowed of the same P, to be paid to the same P, when he should be thereof requested; and the same NP although often requested, the same 30 li. to the same P then had not rendered, as by the Record, and proceedings thereof in the Court of the said Lord the King now here, to wit, at Westminster in the County of Middlesex, amongst the Records in the time of the late King Hen. the 6. remaining more fully appeareth, and this the same Maioꝛ and Commons are ready to verifie, whereupon from whence the taking the Cattell aforesaid, at S within the Burrough of Plymouth aforesaid, the same Maioꝛ and Commons, pray the liberty to have the Conuſance of the same Plea, as to the same taking of the Cattell aforesaid, within the Burrough of Plymouth aforesaid, supposed to be done in the same Court of the Lord the King now of the Burrough aforesaid, before the same Maioꝛ of Plymouth aforesaid, in the Guild Hall aforesaid, to be determined; and that the same liberty, to the same Maioꝛ and Commonalty may be thereof allowed, &c. Whereupon it is requested of the parties aforesaid, if they have or know any thing for themselves to say, wherefore the same Maioꝛ and Com. their liberty aforesaid, in the same plea ought not to have, &c. Who say no. Wherefore the same Maioꝛ and Commons have their liberty in that plea: And hereupon the same Attourney of the said Maioꝛ and Commonalty, presteth a day to the parties aforesaid, to be held before the same Maioꝛ at the next Court, within the Guild Hall of the same Burrough, And it is said to the same Attourney that full and speedy Justice therein be exhibited to the same parties, otherwise they return, &c.

T 13 Ja. rot. 650. Devon ff. R B was summoned to answer NH of a plea, wherefore he took the Cattell, &c. And count the said defendant the 30 day of Decemb. Ann. &c. At B in a certain place there called le N, parcel of a certain Tenement named W T, took the Cattell, to wit, &c. of the plaintiff to the damage of the plaintiff of 20 marks, &c. Wherefore the plaintiff.

And the same R by J R cometh, &c. And as Bailiff of J D Esquire well acknowledges the taking of the Cattell aforesaid, in the same place, in which, &c. And justly, &c. Because he saith, that the same place in which the taking of the Cattell aforesaid, is supposed to be done, containeth, and the same time wherein the taking of the Cattell aforesaid, is supposed to be done, did contain in it self 8 acres of Land with the appurtenances in B aforesaid, and that long before the same time in which, &c. One W de le T was

was seized of one mes 20 Acres of Land, 10 Acres of Meadow, 20 Acres of Pasture and 30 Acres of Furz and Heath, with the appurtenances in B
aforesaid, whereof the 8 Acres of Land with the appurtenances in which, The contents
&c. are, and the aforesaid time in which, &c. and also from the time
whereof the memory of man is not to the contrary, were parcel in his de- Seising of
measne as of fee, and being so thereof seized before the same time in the lands ou
which, &c. To wit, upon Wednesday next after, &c. Ann. 12 E 2. at B of which the
aforesaid, by his certain writing which the same R, with the Seal of the rent is granted
the same W, signed here in Court, bearingth, whose date is the same day and year,
granted to J M and W M a certain Annual rent of 2 s. issuing out of the De- Granted of a
nements aforesaid, with the appurtenances whereof, &c. To have and re- rent by Deed
ceive the same Annual rent to the same J M and W, their Heirs and Assigns to two joyn-
forever, at two Terms in the year, to wit, at the feast of St. Michael the tenants.
Archangel, and Easter, by equal proportions to be paid, And if it shall happen The Deed
the said yearly rent of 2 s. or any parcel thereof to be behinde in part or in shewed.
whols, by any feast of the feasts aforesaid, wherein as aforesaid it ought Cause of di-
to be paid, unpaid, that then and afterwards, it shall be lawful to the same stress which
J and N their Heirs and Assigns, into all the Tenements aforesaid, with makes rent
the appurtenances and every parcel thereof to enter, and distrain, and in charge.
distrains so there taken lawfully to carry away, chase, impounds, and in
pound keep until of the said yearly rent of 2 s. together with the arrearages
thereof (if any be,) shall be to them fully satisfied and paid: As by the same
writing it more fully appeareth; By vertue of which said grant, the same J Seising of rent
M and W, were seized of the said Annual rent of 2 s. in their demesne as of in fee by force
fee and right, and so being thereof seized, the same J M afterwards and be- of the grant by
fore the same time in which, &c. at B aforesaid died, and the same W both of both
him survived, and was thereof solely seized in his demesne as of fee by of them.
right of Eschevourship; and so being thereof seized, the same W after- One of the
wards and before the same time in which, &c. at B aforesaid died, of joyn tenants
such his estate thereof seized, after whose death the same Annual rent of dieth. Pleader
2 s. descended to one J M of P, as Cozen and Heir of the same W, by which of Surviour-
the same J received the said Annual rent, and was thereof seized in his ship.
Demesne, as of fee: And the same being so thereof seized, and one J
D of W in the County aforesaid, of 2 Mes, 2 Gardeas, 20 Acres of Land,
6 Acres of Meadow, and 30 Acres of Pasture, with the appurtenances
in P and T, in the County of C, in his Demesne as of fee being seized,
the same J D afterwards and before the same time in which, &c. To wit, the
22 day of January, Ann. H 8. 21. at B aforesaid, by his certain writing in-
dented between the same J D of the one part, and the same J M of P of the
other part, made, whose other part with the Seal of the same J M, Sealed Exchange by
here in Court, bearingth, whose date is the same Day and Year, gave and deed indented
granted to the same J M of P, the Tenements aforesaid, with the appur- of rent in one
tenances in P and T aforesaid, in exchange for the said Annual rent a- County of
mongst other things, to have and to hold the same Tenements with the Lands in ano-
the appurtenances, to the same J M his Heirs and Assigns for ever, and the ther County.
same J M of P, by the same writing, gave and granted, to the same J D of
W, the same Annual rent of 2 s. amongst other things for exchange for the
same Tenements, with the appurtenances in P, and T aforesaid, to have
and to hold the same Annual rent of 2 s. to the same J D of W his Heirs
and Assigns for ever: By vertue of which said exchange, the same J M of Entry into the
P, into the same Tenements with the Appurtenances in P and T entered, Lands by ex-
and was thereof seized in his demesne, as of fee, and one W de Thorne change.
then of the same Lands with the appurtenances in B, out of which the Payment of
same Annual rent of 2 s. was issuing, in his demesne, as of fee being rent by the
seized, the same W the said Annual rent of 2 s. to the same J D of W, in exchange. Tenant of the
the Land, &c. At
the time of the

Replevin.

Seisin of Rent.
Descent of the
Rent.

Another Descent of the Rent from him, by whose right the Defendant maketh Cognizance.

Makes Continuance for 15 years rent arreare in the Lands lieable to distresse.

Traverse that he took the Cattel as bailly Count in Replevin.

The Defendant avoweth the taking, &c. in his own right for heriot service due after the death of the Tenant.

P 3 Eliz. rot. 875. T 11 H 8. rot. 4. 8.

P 3 E. rot. 875. T 11. H 8. rot. 428

Te. seized in Fee Tenant of the Lady E. of the manor L. by the services, &c.

P 15. and 16. H. 8. rot. 412.

Justice in transgr. for heriot service of lands held of the rectory by fealty.

Fealty and Rent 3 s. and 8 d.

T 19 Ia. rot. 15 to Justice in transgr. after the death of the Tenant for life upon a Feoffment to uses for a Heriot service, and issue upon the Lease that it was not the Lease of the Tenant for life.

the life of the same J M at Bafozesaid, payd and contented, whereby the same J D was of the Annual rent aforesaid seized in his Demeasne, as of fee. And being so thereof seized, the same J D of W, afterwards, and before the same time in which, &c. at B aforesaid died, of such his estate therein seized, after whose death the Annual rent aforesaid descended to one W D Esquire as Son and Heir of the said J D of W, by which the same W the yearly rent aforesaid received, And was thereof seized in his demesne as of fee; And being so thereof seized afterwards and before the same time in which, &c. at B aforesaid died of such his estate thereof seized, after whose death the same Annual rent descended to one J D Esquire as Son and Heir of the same W, by which the same J D the same yearly rent aforesaid received, and was thereof seized in his Demeasne as of fee; And being thereof seized the same J D the Son afterwards and before the same time in which, &c. at B aforesaid died of such his estate thereof seized, after whose death the same Annual Rent descended to one J D Esquire as Son and Heir of the same J D the Son by which the same J D the same Annual rent aforesaid received, and was thereof seized in his Demeasne as of fee; And being so thereof seized before the same time in which, &c. to wit the last day of May, Anno Elz. Reg. 40. at B. aforesaid died of such his estate thereof seized, after whose decease the same Annual Rent descended to the same J D, in whose right the same R now acknowledgeth the taking of the Cattel aforesaid as Son and Heir of the same J D. By which the same J D was and yet is seized of the same Annual Rent of two shillings in his Demeasne as of fee. And because ten shillings of the Rent aforesaid for five years ended at the feast of St. Michael the Archangel Anno 10 aforesaid were in arreare and not paid, the same R as Bailiff of the same J D for the same ten shillings of the Rent aforesaid so being in arreare well acknowledge the taking of the Cattel aforesaid in the same place in which, &c. and justly, &c. as in Lands chargeable, and tied to the distress of the same J D in form as aforesaid, &c. The Plaintiff demurs in Law upon the Avowant. See the case and judgement. Hutton for the Avowant Harries for the Plaintiff.

T. 6 Jacobi rot. 2502. in Replevin the Defendant makes Continuance as a Bailiff damage feasant, the Plaintiff saith detort demesne, and traverseth the taking as Bailiff, &c.

T 13 Ia. rot. 2145. Brownlowe, Southampton M R K was summoned to answer W B, &c. Counts for that the Defendant the 23 day of December Anno, &c. 12. at L. in a certain place called the Gate room took a heifer of the Plaintiff, &c.

And the said R by S W his Attorney cometh &c. And well avoweth the taking of the Heifer aforesaid in the same place in which &c. and justly &c. because he saith that the same place wherein the taking of the same Heifer is supposed to be done, containeth and at the same time in which the taking of the Heifer aforesaid above supposed to be done, did contain in itself the half of one Rood of Land with the appurtenances in L aforesaid; And that long before the same time in which &c. One T B was seized of one messuage and 20. Acres of Land, with the appurtenances called B in L aforesaid, whereof the said half of one Rood of Land with the appurtenances in which &c. is, and at the same time in which &c. And also from the time whereof the memory of man is not to the contrary, was parcell in his demesne as of fee. And those Tenements with the appurtenances held of the Quenes Majestie of England as of her Manor of L. A. in the County aforesaid, by fealty and rent of iii s. and viii. at the feast of St. Michael the Archangel, and the Annunciation of the blessed Virgyn, by equal portions yearly to be paid, and also by the service

service of doing of lute at the Court of the said late Queen at her Mannor
 aforesaid, from three Weeks in three Weeks, at the same Mannor
 yearly to be held, and also by the service of rendering after the death of
 every tenant departing, seised of the same tenements with the appurte-
 nances the best Beast of the same tenant at the time of his death by the
 name of an Herriot of which said Mannor with the appurtenances, the
 same late Queen was seised by the hands of the same T as by the
 hands of the true tenant, to wit, of fealty and suit of Court aforesaid
 in her demesne as of fee and right, and of the rent and Herriot aforesaid
 in her demesne of fee in the right of her Crown of England. And the
 same late Queen being so thereof seised, the same late Queen after
 wards and before the same time in which &c. at L. aforesaid died of such
 her estate thereof seised without Heir of her body coming after whose
 death the Mannor aforesaid with the appurtenances descended to the Lord
 as well free as the King now as coven and Heir of the same late Queen, whereby the
 same late King, now was seised of the Mannor aforesaid, with the appur-
 tenances in his demesne as of fee in the right of his Crown of England,
 And being so thereof seised before the same time in which &c. to wit the
 4th. day of May, Anno, &c. 8. at West. in the County of Midd. by his
 Letters Patents, which the same R with the great seal of England sealed
 here in Court bringeth, whose date is at Westminster aforesaid the same
 day and year gave and granted to G W and T W the Mannor aforesaid
 with the appurtenances to have and to hold to the same G and T their
 Heirs and Assignes for ever. By vertue of which said Letters Patent
 the same G and T afterwards and before the same time in which &c. into
 the Mannor aforesaid with the appurtenances entred & were thereof, seised
 in their demesne as of fee. And being so thereof seised, the same G & T after-
 wards, & before the same time in which &c. to wit, the 20th. day of May, An. p.
 Ja Rs at L. aforesaid, by his certain Indenture of bargain & sell between the
 same G & T of one part, & the same R K of the other part, made & afterwards
 within six Moneths then next following in the Court of Chancery of the
 said Lord the King at Westm. in the County of Midd. according to the
 form of the Statute, in such case made and provided in due manner, in-
 rolled upon Record with other part with the Seals of the same G and T
 W sealed, herein Court bringeth, whose date is the same day and year
 in consideration of a certain sum of money to the same G and T by the
 same R K in hand paid, have bargained and sold to the same R K the Man-
 nor aforesaid with the appurtenances to have and to hold to the same
 R K his Heires and Assignes for ever. By pretext of which bargain, sell,
 and enrolment aforesaid. And also by vertue of a certain Act in Parlia-
 ment A^o H 27^o 4^o Feb. of transferring uses into possession held, made and
 provided, the same R K was, and yet is seised of the Mannor aforesaid, with
 the appurtenances in his demesne as of fee, And being so thereof seised, and
 the same T B of the tenements aforesaid, with the appurtenances in form
 aforesaid, being seised the same T B afterwards and before the same time in
 which &c. at L. aforesaid, died of such his Estate therein seised, after
 whose death the Tenements aforesaid with the appurtenances descended
 to the same W B as Son and Heir of the same T B by which the same W
 afterwards, and before the same time in which &c. into the tenements a-
 fozesaid with the appurtenances entred &c. and was thereof seised in his
 demesne as of fee. And because the Herriot, the best Beast price 18 s, the Son and
 which was of the same T B at the time of the death of the same R K the
 same time in which &c. was in arrear not rendered, or delivered the same R
 for the same Herro itso being in arrear well aboweth the taking of the
 Heire

P 1. Eliz. rot.
 457.
 P 15. H 8.
 rot. 632.
 Cag. T. iustitie
 in.

Trespass for
 herriot custom
 after the death
 of the Tenant
 of any Lands,
 or Tenements,
 as well free as
 customary.

T 41. Eliz. rot.
 320. T 26. H 8.
 rot. 584. H 41.
 Eliz. rot. 1116.
 M 15. Ja. rot.
 564. between
 K. and K.

justifie in
 transgre. for a
 several Herriots
 customs due
 for 2 aliena. of
 two several
 Lands held of
 several Man-
 nors, issue up-
 upon the
 Custome.

The K. grants
 the Mannors
 by Letters
 Patents to
 two.

Entry and Sei-
 sin of the
 Patentees.

See if it ought
 not to be by
 the names &c.

The Patentees
 grants the Man-
 nor in fee by
 bargain and
 Sell to the A.

voward by
 deed inrolled.

Consideration.
 St. of uses of
 H. the. 8.

The Tenant
 died seised.

Rescent of the
 tenements to
 the Son and
 Heir, which

was not well
 pleaded.

T. 6. Ja. rot.
 Heire 1799.

B b b b b

Heifer aforesaid, in the same place in which &c. and justly &c. as in the Lands of the same R in form aforesaid held. And within the fix and permealie &c.

The Defend.
pleads a bar,
by confessi-
on that his Father
was seised
Plant. &c.
and that his
Father held
by fealty and
rent without
char that he
held by fealty
rent, suit of
Court, and
Herriot ser-
vice.

And the same W saith, that the same R for the reason before alleged, the taking of the Heifer aforesaid, in the place in which, &c. ought not justly to avow, because he saith, that well and truly it is, that the same T B in his life time, was seized of the same messuage, and 20. acres of Land with the appurtenances called B, whereof &c. in his demise as of fee, as the same R hath above also alleged. But the same W further saith that the same T B in his life time, held the Tenements aforesaid, with the appurtenances of the late Queenes Maestty, as of her Manor of L A in the County aforesaid, by fealty and rent of iii s. viii d. at the feast of S. Michael the Archangel, and the Annunciation of the blessed Virgin Mary, by equal portions yearly to be paid without that, that the same T held the Tenements aforesaid with the appurtenances, whereof, &c. of the said late Queen Elizabeth, as of her said Manor of L A, by fealty and rent of iii s. viii d. at the feast of S. Michael the Archangel, and the Annunciation, &c. by equal portions to be paid, and also by the service of making suit at the Court of the said Queen at her Manor aforesaid, from three Weeks, unto three Weeks, at the same Manor yearly to be held. And also by the service of rendering after the death of every tenant dying seized of the tenements aforesaid with the appurtenances, the best Beast of the same tenant at the time of his death, in the name of an Herriot, as the same R hath above alleged. And this he is ready to verifie, whereupon for that the same R the taking of the Heifer aforesaid in the same place in which &c. above acknowledged, the same W prayeth judgement and his damages by occasion of the taking, and unjust deteyning of the Heifer aforesaid to him to be adjudged, &c.

The Avoward
maintains his
Avowry that
he holds by
fealty rent,
Suit of Court
and Herriot, &
issue thereup-
on.

And the same R as before saith, that the said T B held the tenements aforesaid with the appurtenances whereof &c. of the same late Queen Elizabeth as of her said Manor of L A aforesaid by fealty and rent of iii s. viii d. at the feasts of S. Michael the Archangel, and the Annunciation of the blessed Virgin Mary, by equal portions yearly to be paid. And also by the service of making suit at the Court of the said late Queen at her Manor aforesaid from three Weeks to three Weeks, at the same Manor yearly to be held, and also by the service of rendering after the death of every tenant dying seized of the tenements aforesaid, with the appurtenances, the best Beast of the same tenant at the time of his death in the name of an Herriot, as the same R hath above alleged. And of this he putteth himself upon the Country, And the same W likewise. Therefore the Sheriff is commanded, that he cause to come here &c. xii. &c. of the neighborhood of L and Manor of L A by whom &c. Search for the judgement. See Mancill, and Redtoles Case come for. Where the tenure ought to be traversed, and where the Heisin in avowry. Note well.

Gardian in
Chivalry.

H. 16 Jo. rot. s Brownlow Cormb. ff against L gardian in Chivalry Heir being in gard. avoweth for the Arrerages of rent reserved upon a Lease for years by the grantor of the ward, due after Seizure of the ward.

Count. in Re-
plegen for ra-
king of goods
in a Stable.

T 13. Ja. not. 3667. s Brownlow Warr SHP and R C were summoned to answer M H Widdow, of a plea, wherefore the 30. day of September in the 12 year

12. year of King James at M. near W in a certain place called the Stable too: the Cattle, to wit, two Mares the same, M &c.

And the same H and R by F C &c. And as Wayliffs of G W Gent. well acknowledge the taking of the Cattle aforesaid in the same place in which &c. And justly &c. Because they say that the same place called the Stable wherein the taking of those Cattle is supposed to be don, was one Stable parcel of one Messuage with the appurtenances in M aforesaid, than in the tenure of the same M H. And that long before the same time in which &c. One of WS Esquire, was seized of the Mannors of VV and M with the appurtenances, and of 10 Mes. 10 Gardens, 200 Acres of Land, 100 Acres of Meadow, 100 Acres of Pasture, and 20 Acres of Wood, with the appurtenances in VV and M aforesaid, in the County aforesaid, whereof the same place in which &c. is and the same time where-

The Defend. makes Con-
fance of ta-
king for da-
mage sesant
in the freehold
of an estranger
by fine.

in &c. And also from the time whe col the memo: of Dan is not to the contrary was parcel in his demesne as of fee. And being so thereof seized, the same VV before the same time, in which, &c. to wit, the 16 day of January A°. 23. Eliz. Rne. at M near VV aforesaid, by his certain In-

Contents.

denture between the same VVS by the name of VV S of &c. of the one part, and A H Esquire, R G Esquire &c. of the other part made, which o-

Indenture.

ther part with the Seal of the same VV Sealed, the same H and R here in Court bringeth, whose date is the same day and year for and in consideration of the natural love and affection, which the same VV then bore to such Children and issue, as God favoring should be born. And also to John S Gent. his dear and onely Brother. And also HS of MD. in the County of S Esquire, and RS of VV in the same County of S Esq.

Consideration
of the mutual
love.

Is of P in the same County of S Esq. his Beloved Kinsman, and the Heires of their severall Bodies lawfully begotten, and to be begotten, And for the advancement and preferment of his said Brother, and his other Kinsman, And to the intent that all and singular the Mannors, Lands,

Tenements, and Hereditaments, afterwards in the same Indenture specified, should continue, and remain for ever in the Family, Blood, and Name of the same VV S. (if so it should please the omnipotent God) And for divers other good causes, and considerations the same VVS thereunto moving, for himself and his Assignes, covenanted,

granted, and agreed by the same Indenture to and with the same A H R G Ro G &c. that the same VVS before the feast of St. John Baptist, then next following at his proper costs and charges, should make, convey, and execute to the same A R R Ja Ro & Jo or to some of their Heires & Assignes,

or to such other Person, or such other Persons, their Heires & Assignes, as by the same A R R &c. or any of them should be named or appointed. All and every such conveyances and assurances of, and in the same Mannors of VV and M with the appurtenances, and of the Tenements aforesaid, where-

Covenant to
make assuran-
ces

of &c. amongst other things, by fine Recovery, Feoffment, or otherwise, as of the same A R R &c. or any of them, or any of their Heires should be devised. And that all and singular the same assurances and cove-

tes of the Premises, or any parcel of them made, at all times from thence should remain and be. And the same A H R G &c. their Heires and Assignes, and every of them, and all and singular other Persons their Heires and Assignes, and every of them that should any estate or in-

See for this is
imperfect.

terrest, by, from, or under the same assurances or conveyances, or any of them should at all times stand and be seised, of and in all and singular the same Mannors and Premises aforesaid, whereof &c. to such onely uses,

Intents & purposes, which are in the same Indenture expressed and limited, to wit, to the use of the said VVS and his Assignes for & during the term of his natural life, with out impeachment of any waik. And after his decease,

Covenant that
the Grantees
should be seised
to the uses &c.
then

Used and limited to the Grantor for life without impeachment of Waste. To the use of the first Son to be born, and the Heirs males of his body the Remainder over in Tail, &c.

then to use and behoof of the first begotten Son of the body of the same W S lawfully begotten, and the Heirs of the first begotten Son of lawfully begotten; And for the default of such issue, then to the use & behoof of the second Son of the body of the same W S lawfully begotten, and the Heirs of the body of the same second Son lawfully begotten, and for default of such issue, then to the use and behoof of the third Son of the same W S lawfully begotten, and to the Heirs males of the body of the same third Son lawfully begotten; And for default of such issue, then to the use and behoof of the fourth Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the same fourth Son lawfully begotten; And so to the uses of the 5, 6, and 7 Sons, and the Heirs males of their bodies lawfully begotten; And for default of such issue, then to the use and behoof of all such other Sons, then afterwards of the body of the same VV S, which should be lawfully begotten and of the several Heirs males of their several bodies, to be lawfully begotten successively, one after the other, in such manner and form of the same should descend by the order of the Common law. And for default of such issue, then to the use and behoof of to the same I S the brother of the same VV S & the Heirs of his body of his same I S lawfully begotten. And for default of such issue, then to the use and behoof of the same H S of M D in the County of Southampton Esquire, and the Heirs males of his body lawfully begotten, and to be begotten. And for default of such issue, then to the use and behoof of the same I S of P in the County of Sussex Esquire, and the Heirs males of his body begotten, and to be begotten. And for default of such issue, then to the use and behoof of the right Heirs of the same VV S for ever; as by the same Indenture more fully appears. And the same W S so of the same Mannors of W and M, and of the said Tenements with the appurtenances in W and M, whereof, &c. in his Demeasne as of Fee in form aforesaid being leased, after the making of the same Indenture, and before the same feast of the Nativity of St. John the Baptist in the Indenture aforesaid, above specified, to wit, in October Y^r. An. 23 E. 1. by the device of A H, R G and others, &c. in the accomplishment of the Covenants in the Indenture aforesaid specified, levied a certain time in the Court of the said Lady the Dusen in the Common Bench here, to wit, at Westminster in the same County of Middlesex before Jadier and others, &c. between the same A H, R G and others by the names of, &c. Plaintiffs: And the same W S by the name of W S Esquire desorçant of the same Mannors of W and M with the appurtenances and of the same Tenements with the appurtenances in W and M in the County of Warwick, whereof, &c. amongst other things by the names of the Mannors of M C, P B, A C, &c. with the appurtenances, and of 100 Mes, 10 Cottages, 4 Mills, 2 Dove-houses, 100 Gardens, 100 Acres of Land, 500 Acres of Meadow, 2000 Acres of Pasture, 500 Acres of Wood, 1000 Acres of Furze and Heath, and 10 l. Rent with the appurtenances, in C P S A F B, &c. in the County of Sussex, & of the Mannors of W M with the appurtenances, and 10 Mes, 10 Gard, 200 Acres of Land, 100 Acres of Meadow, 100 Acres of Pasture, & 20 Acres of Wood with the appurtenance in W & M in the C. of W. & of the Mannors of B the great H S M and S T with the appurtenances, and of 100 Acres of Land, 600 Acres of Meadow, 1000 Acres of Pasture, 1000 Acres of Wood, 500 Acres of Furze & Heath, & xiiij l. & iiij s. Rent with the appurtenances in B M, H S, &c. in the C. of Essex, and of two Mes, 2 Gardens, 100 Acres of Land, 100 Acres of Meadow, 100 Acres of Pasture, & 10 Acres of Wood with the appurtenances in E, & greath in the C. of Suff. & of the Mannor of F H with the appurtenances to Mes 100 Gardens, 500 Acres of Land, 500 Acres of Pasture, & 100 Acres of Wood, with the appurtenances in F H in the County

A Fine levied to confirm the Indenture for the same uses.

County of Kent, whereof a Plea of Covenant was summoned between them in the same Court, to wit, that the same W S acknowledged the Pannors, Tenements and Rents aforesaid, with the appurtenances to be the right of the same A, as those which the same A R R, &c. have of the gift of the same W; And the same remised, and quit claimed from himself and his Heirs to the same A R R, &c. the Heirs of the same A for ever. And besides the same W granted for himself and his Heirs, that they that will warrant to the same A R R, &c. and the Heirs of the same A the Pannors, Tenements and Rent aforesaid, with the appurtenances against all men for ever, which said fine in form aforesaid levied, was, had and levied to the uses in the Indenture aforesaid above specified; By virtue of which said fine, and also by force of a certain Statute in the Parliament of H late King of England the 8 at Westminster in the County of Middlesex the fourth day of February, Anno, &c. 27 of transferring used in possession, held made and provided the same W S, was seized of the same Pannors of W and M, and of the said Tenement with the appurtenances in W and M aforesaid in the same County of War. whereof, &c. in his Demeasne, as of free Tenement for Term of his natural life without impeachment of any Waste, the Remainder thereof after his decease to the first born Son of the said W S lawfully begotten, and the Heirs males of the body of the first begotten Son lawfully begotten; And for default the Remainder thereof to the second Son, &c. tercio, &c. 4. &c. 5. &c. 6. &c. and to the 7 Son of the same W S of his body lawfully begotten, and the Heirs males of the same 7 sons lawfully to be begotten, & for default of such issue to all such sons which should then afterwards be begotten of the body of the same W S and the several Heirs of their bodies lawfully to be begotten successively after another in such manner & form as the same descended by the order of the common Law, the Remainder thereof further for default of such issue to the same I S the brother of the same W S, and the Heirs males of the body of the same I S lawfully begotten, the Remainder thereof for default of such issue to the same A S of M D and the Heirs males of his body lawfully begotten, the Remainder thereof further to the same R S Esquire, and the Heirs males of his body lawfully begotten and to be begotten, the Remainder thereof to the right Heirs of the same W S in form aforesaid belonging, and the same W C so of the same Pannors of W and M, and of the Tenements aforesaid with the appurtenances in W and M whereof, &c. in form aforesaid being seized. And the same I S the brother of the Remainder of the same Pannors and Tenements aforesaid, with the appurtenances in the same County of War. whereof, &c. as in Fee-tail, and right, to wit, to him and the Heirs males of his body begotten, the Remainder thereof as in the Indenture aforesaid, above limited in form aforesaid belonging the same I S afterwards, and before the same time in which, &c. at M. aforesaid died of such his estate thereof seized: after whose death the Remainder thereof descended to one I S now Knight and Baronet as Son and Heir of the same I S the brother, by which the same I S the Son was seized of the Remainder of the said Pannors & Tenements, with the appurtenances in the same County of Warwick whereof, &c. the Death of amongst other things as in Fee-tail and right to wit to him and the Heirs males of his body lawfully begotten. And the same I S so of the Remainder aforesaid in form aforesaid being seized. And the same W S of the Pannors and Tenements aforesaid with the appurtenances in the County of Warwick: whereof, &c. amongst other things in his Demeasne as Free-tenements for Term of his life in form aforesaid being seized the Remainder thereof to the same I S the Son informed aforesaid belonging; the same W afterwards and before the same time

The Fine levied to the uses in the Indenture aforesaid per. St. 27 H. 8. de ulibri, &c.

He in Remainder in Tail dieth before the Lessee for life.

Descent of the Remainder in Tail before the Death of the Donor.

Seizure of the Remainder is in Fee and right.

Lessee for life
dieth.

Entry of him
in remainder
in Tail.

Fine levied by
him in Re-
mainder being
in possession,
&c.

Use of the
time to the
Plaintiff in
Fee.

Conuſee was
ſeiſed in Fee
by Fine, and
the ſtatute of
22 H. 8.

Conuſance made for Damage ſeſant.

The Plaintiff
pleads in barr
to the Avow-
ry, and con-
ſeſſeth the
Indenture,
but ſheweth
that there is
proviſo, &c.
that upon the
render of xij d.
by the Grantor,
the Indenture
to be void,
and that the
Grantor was
attainted of
high treaſon
by the Parlia-
ment, &c.

in which, &c. at M. afozeſaid died of ſuch his eſtate thereof ſeiſed without
iſſue of his body begotten, after whole death the ſame I S the Son into the
ſame Mannors of W and M and into the ſame Tenements in M with the
appurtenances whereof, &c. as in Remainder afozeſaid therein entred and
was thereof ſeiſed in his Demeaſne as of Fee-tail, to wit, to him and the
Heirs-males of his body lawfully begotten, the Remainder thereof ſur-
ther inform afozeſaid belonging. And the ſame I S being ſo thereof ſeiſed
beſore the ſame time in which, &c. to wit, adjeſci Martini, &c. Anno Reg. &c.
10 leyped a certain fine in the Court of the ſame Lord the King in the
Common bench here to wit at Weſtminker afozeſaid beſore E C, &c. between
the ſame G W Plaintiff, by the name of G W gent. Plaintiff. And the
ſame I S the Son Jones, his Wiſe I C Knight H G Knight I H Knight
& F G Eſquire by the names, &c. deſorſeants of the ſaid Mannors of W M
of the ſame Tenements with the appurtenances in W & M whereof, &c. in the
ſame County of Warwick by the names of the Mannors of W and M with
the appurtenances, and 5 Mes, 7 Cot, 5 Barnes, 3 Tofts, Dove-houſe, 10.
Gardens Ditchards, 200 Acres of Land, 40 Acres of Meadow, 100 Acres of
Paſture 10 Acres of Wood, 100 Acres of Furze and Heath 24 s. Rent Com-
mon of paſture for all Cattle and view of frank-pledge with the appurte-
nances in W M S, &c. whereof a Plea of Covenant was ſummoned thereof
between them in the ſame Court, to wit, that the ſame I and H, &c.
acknowledged the ſame Mannors, Tenements, Common of paſture, and
view of frank-pledge with the appurtenances to be the right of the ſame
G as thoſe which the ſame G had of the gift of the ſame I, and I, &c. And
the ſame remiſes and quit claimed of the ſame I, and I H, &c. and their
Heires to the ſaid G and his Heirs for ever, which ſaid fine in form
afozeſaid leyped and had, was had and leyped to the uſe of the ſame G W
and his Heires for ever; By vertue of which ſaid fine. And by force
of the ſame ſtatute of tranſferring uſes to poſſeſſe, the ſame G VV. was,
and yet is of the ſame Mannors of W and M, and of the ſame Tenements
in W and M afozeſaid whereof, &c. ſeiſed in his Demeaſne as of Fee. And
becauſe the Cattle afozeſaid, the afozeſaid time in which, &c. were in the
ſame place in which, &c. Damage, &c. the ſame H P and R C as Bailiffs of
the ſame G well acknowledge the taking of &c. in the ſame place in
which, &c. and juſtly, &c. Damage thereſo doing, &c.

And the ſame M H ſaith that the ſame H P and R as Bailiffs of the
ſame G H the taking of the Cattel afozeſaid in the ſame place, in which, &c.
juſtly ought not to acknowledge, becauſe he ſaith that well and true it
is that the ſame W S Eſquire was ſeiſed of the Mannors of W and M
afozeſaid, and of the Tenements afozeſaid with the appurtenances where-
of, &c. in his demeaſne as of Fee, And ſo being therof ſeiſed the ſame W S the
ſame 16 day of January Anno 23 Eliz. abovesaid by his certain Indenture
between the ſame W S of the one part. And the ſame A H, I C, &c. of the
other part for the conſiderations in the ſame Indenture ſpecified for him-
ſelf his Heirs and aſſignes covenanted, granted and agreed by the ſame In-
denture to and with the ſame A H, &c. that the ſame A H, &c. the Heires & aſ-
ſignes of every of them, ſhal & ſingular other perſons their Heires & aſ-
ſignes & every of them which ſhould have any eſtate or intereſt by from or under the
ſame conveyances or aſſurances in the Indenture afozeſaid abo. ſpecified, or
any of them at any times ſhould ſtand, and be ſeiſed of and in all, and ſin-
gular the Mannors and Tenements afozeſaid with the appurtenances
whereof, &c. amongſt other things to the uſe of the ſame W S and his aſ-
ſignes for and during his natural liſe without impeachment of any intereſt.
And

And after the decease of the same W S then to the use and behoof of the first born Son of the body of the same W S lawfully begotten, and the Heires males of the body of the first same first begotten, lawfully begotten. And so recite the uses in the same Avowry above specified, until a default of such issue then to the use and behoof of the right Heires of the same W S for ever. And that the same W S so of the same Mannors of W and M with the appurtenances of the same Tenements with the appurtenances in W and M in the aforesaid County of Warwick, whereof, &c. as aforesaid being seized in the same O. & Hil. Anno 23 aforesaid levied the same fine in the same Court of the said late Queen of the Common bench heretofore, at Westminster aforesaid before I D, &c. (And so recite the fine as aforesaid) until, and of the same Tenements in W and M with the appurtenances in the same County of W, whereof, &c. in form aforesaid, which said fine so as aforesaid levied, and had, was had, and levied to the uses in the Indenture aforesaid, specified. By virtue of which said fine and so by force of the Statute in the Parliament of the Lord Henry late King of England the viii th. at Westminster, in the County of Midd. the 4. day of Feb. A. 27. aforesaid, of transferring uses into possessions held, made & provided the same VV S was seized of the said Mannors of VV and M aforesaid with the appurtenances, and of the tenements aforesaid, with the appurtenances in VV & M aforesaid in the same County of VV Warwick. And he of &c. in his demeaner as of &c. tenant, for term of his life the remainder thereof as is above limited in form aforesaid belonging, as the same H P and R C by their acknowledgement aforesaid have above alleged. But the same M further saith, that by the Indenture aforesaid, then and there amongst other things, it was provided, covenanted, concluded and fully agreed upon, by and between the parties aforesaid, by the same Indenture. And it was the full intent and meaning of the same VV S that if the same VV S at any time during the natural life of the same W S would give, and deliver, or lawfully tender to the same A H R G &c. or to any of their heires or to the Assignes of any of them one Gold Ring; or one pair of Gloves, of the price of ii d. or more, or the sum of xii d. or more, the same W S then declared and expressed, that the said Gold Ring, pair of Gloves, or sum of xii d. should be by him given, delivered, or tendered to the end and purpose to make void, and ad nihilate, the same Indenture that then and immediately from thenceforth all and singular use, and uses, and limitations in the same Indenture before expressed, limited, and declared, of, in and unto all and singular the Mannors, Messuages, Lands, Tenements, Hereditaments, and all and singular other the premises and every or any part or parcel thereof should altogether cease and be void and of none effect. And that from thence afterwards, all and singular fine and fines, Recovery and Recoveries, Feoffment or Feoffments, and other conveyances and assurances aforesaid, and every of them so had, made, or suffered by force, or according to the form of the same Indenture, should be and remain. And all and singular the aforesaid Person and Persons so to be Cognisces, Feoffers, or Recoverers, and all other Person or Persons, who or which had any Estate or Estates, Interest or Interests, or at any time from thence afterwards should have of in or unto the same Mannors, Messuages, Lands, Tenements, Hereditaments, and all and singular other the aforesaid premises with the appurtenances or any part or parcel thereof, should stand and be seized of and in all and singular the Mannors, Lands, Tenements, and Premises, to the use and behoof of the same W S his Heires and Assignes for ever. And to no other intent and purpose, as by the same Indenture amongst other things more fully appeareth. And the same W S so of the same Mannors of W & M with the ap-

The Planiffe sheweth a further provision in the Indenture.

Attainder of
Shelley by
Act of Parlia-
ment and for-
feiture of his
Lands with-
Office.

Queen Eliz.
was seised du-
ring the life of
Shelley in the
right of her
Crown.

Commission.

purtenances and of the same Tenements with the appurtenances in VV and M in the same County of VVarr, whereof &c. in his demesne as of fee tenement, for term of his life in form aforesaid, being seised the remainder thereof, as is above limited in form aforesaid, belonging by a certain Act in Parliament of the said Lady the Queen held at VVestm. in the County of Midd. the 29 day of October in the 28. year of her reign the same VV S was attainted and convicted of High Treason by him against the said Lady the reasonable acted and committed. And further by the same Act it was ordained and enacted by the authority of the same Parliament that the same VV S should loose and forfeit to the said late Queen her Heires and Successors, all Honors, Castles, Mannors, Lands, Tenements, Rents, Redutions, Remainders, Offices, Rights, Conditions, and all other Hereditaments of whatsoever Name, Nature, or Quality, they are which the same VV S or any others to his use have or ought to have at the day of the Treason or Offence by the same VV S committed, acted, or done, or at any times afterwards. And that all and singular the same Honors, Castles, Mannors, Premises, Lands, Tenements, Rents, Redutions, Remainders, Offices, Rights, and all other Hereditaments, should be deemed found and judged in actual and real possession of the same late Queen Eliz. without any Office or Inquisition thereof afterwards to be taken or found according to the Common law of this Realm of England, as by the same Act amongst other things it more fully appeareth; By vertue of which said Act the same late Queen was seised of the same Mannors of W and M with the appurtenances, and of the same Tenements with the appurtenances in W and M aforesaid, in the said County of Warwick in her Demesne, as of free Tenement for Term of life of the same W S in the right of her Crown of England, the Remainder thereof as is above limited in form aforesaid, belonging the same late Queen Elizabeth, being so thereof seised, the Remainder thereof as above said in form aforesaid belonging the same late Queen Elizabeth afterwards and before the same time of the taking, &c. and in the same time of the same W S by her Letters, Patents, or Commissioners under the great Seal of England, Sealed bearing date at Westminster in the County of Middlesex, the 25 day of April, Anno Regni 36. I F Knight by the name of her beloved and faithful Counsellor I F Knight, Master of the said Lady the Queen of the Wardrobe reciting in the same Letters, Patents, or Commission, that whereas W S late of M, in the County of S Equire, late convicted and attainted of high treason, was seised in his Demesne as of free, or free tall with free simple expectant, without any Estate of Inheritance amongst other things of and in the Mannors of W and M aforesaid with the appurtenances, and of and in the Tenements aforesaid, with the appurtenances in W and M aforesaid, whereof, &c. And being thereof seised the same W S by the Indenture aforesaid, here in Court brought for the consideration aforesaid, in the same Indenture specified, covenanted, granted, and agreed to and with the same A H, R G, &c. their Heirs and Assignes that the same A H, and R G, &c. their Heirs or Assignes, and every of them & all & singular other persons their Heirs & Assignes, every one of them which should have any Estate or Interest by from and under the same contrivances or assurances in the Indenture aforesaid above specified, or any of them, at all times should stand, and be seised of and in all, and singular the same Mannors and Tenements aforesaid, with the appurtenances, whereof, &c. amongst other things to the use of the same W S and his Assignes, for and during the Term of his natural life without impeachment of any Waste, and after the decease of the same W S then to the use and behoof of the first born Son of the body of the same W S lawfully begotten, and the Heirs

Heirs males of the body of the first born Son lawfully begotten. And for default of such issue, then to the use and behoof of the second Son of the body of the same W S lawfully begotten; And for default of such issue, then to the use and behoof of the third Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the said third Son lawfully begotten; And for default of such issue, then to the use and behoof of the fourth Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the same fourth Son lawfully begotten; And for default of such issue, then to the use and behoof of the fifth Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the same fifth Son lawfully begotten; And for default of such issue then to the use and behoof of the sixth Son of the body of the son of the same W S lawfully begotten, and the Heirs males of the body of the same sixth Son lawfully begotten; And for default of such issue, then to the use and behoof of the seventh of the body of the same W S lawfully begotten, and the Heirs males of the body of the same Son lawfully begotten; And for default of such issue, then to the use and behoof of such other Sons as then afterwards of the body of the same W S lawfully to be begotten, and to the several Heirs males of their several bodies lawfully to be begotten, successively one after another, in such manner form as the same descend by the order of the Common law of England. And for default of such issue then to the use and behoof of the same I, the brother of the same W S, and the Heirs males of the body of the same I S lawfully begotten: And for default of such issue, then to the use and behoof of H S of M B aforesaid, and the Heirs males of his body lawfully begotten, and to be begotten, and for default of such issue, then to the use and behoof of the same R S of W aforesaid, and the Heirs males of his body begotten and to be begotten, and for default of such issue then to the use and behoof of the same I S of P aforesaid and the Heirs males of his body lawfully begotten, and to be begotten; And for default of such issue, then to the use and behoof of right Heirs of the said W S for ever. And also whereas by the same Indenture then and there amongst other things it was provided, covenanted, concluded, and fully agreed by and between the parties aforesaid, to the same Indenture, that the full intention and good will of the same W S was, that if the same W S at any time during the natural life of the same W S should give, and deliver or lawfully tender to the same A H, R G, &c. or to any of the Heirs or Assignes of any of them one gold Ring or pair of Gloves price xij d. or more, or the sum of xij d. or more to the same W S declaring and expressing that the same gold Ring, pair of Gloves, or summe of money of xij d. should, and was by him given, delivered or tendered to the end and purpose to avoid and annihillate the same Indenture, that then, and immediately from thence all and singular use and uses, and limitations in the same Indenture before expressed & declared of, in, & unto al, & singular, the said Mannors, Mes, Lands, Tenements, Hereditaments & al singular other the permittes, or any part, or parcel thereof should altogether cease, and be void of none effect. And that from thence afterwards all and singular Fine and Fines, Recovery and Recoveries, Feofment and Feofments, and other contrivances and assurances aforesaid, and every of them so to be had made or suffered, by force, or according to the form of the Indent aforesaid, should be and remain, and all and singular the same person and persons so to be Conisees or Recoverers, and all person and persons which then had any estate or estates, interests or interest, or at any time of from thence afterwards should have of in or unto the same Mannors, Mes, Lands, Tenements, Hereditaments, and all and singular other the same premisses with the appurtenances or any part or parcel thereof should stand and be

D o d d d

seised

seise d of, and in all and singular the same Mannors, Lands, and Tenements, and premises, to the only use and behoof of the same W^s his Heirs and Assignes for ever and to no other use intent and purpose. And also whereas of the date of the Indenture aforesaid, the same W^s as well by the Act of Parliament thercof made, and provided, as by other wayes stood and was, attainted of high treason; And that then the same condition and provision in the same Indenture mentioed for the determination of the same uses in the same Indenture appointed and limited, and the benefit and advantages thereof by the Lawes and Statutes of this Realm of England to the said late Queen Elizabeth wholly come grow & accrue, and to the same late Queen Elizabeth justly and lawfully do belong and appertain, the same late Queen Elizabeth willing to determine ad nullu and altogether to frustrate all the same uses amongst other things of the same Mannors of VV & M^s of the Tenements aforesaid, with the appurtenances, whercof, &c. according to the Tenor effect and true intention and performence thereof, and for the determination and avoidance of all the uses aforesaid, by her said Letters Patents or Commission gave, and created full power and authority to the same beloved and faithful Counsellor I F Knight, Gr. of the Wardrobe of the said late Queen, &c. and in the right, and in the name of the late Queen, to deliver to the same A H, R G and others, or to any of their Heirs, and any of them, one gold Ring, and thereupon for the said Lady late Queen, and in her name, and to her use to nominate the same to be given, delivered, and tendered, to the end and purpose to make void and annul the aforesaid Indenture, and the said Assurances so as aforesaid made; And further to do and execute all and every thing which should be requisite or necessary for and concerning the making of the premises, holding firm and stable all and whosoever the same I F shall do in the premises. And further the same Lady the Queen, willed that the same I F after the making and execution of the premises, as soon as conveniently he could return and certifie whosoever shall be done in the premises, together with the Letters Patents or Commission of the said Lady the Queen into her Court of Exchequer, there upon Record remaining, as by the same Letters Patents, or Commission amongst the Commissions of the said Lady the Queen, amongst other things more fully appeareth. By pretence of which said Letters Patents or Commissions, the same I F afterwards, and after the making the same Letters Patents or Commission, to wit, the xxix day of April A^o Eliz 26. then at Lond. at the Parish of Saint A. in the Ward of B. in the house of the said late Queen, of the great Wardrobe for the said Lady the Queen, & in the name of the said Q. the same I F then there declaring the purpose & effect of the same Letters Patents, or Com. aforesaid, delivered to one I H Kn. Son & Heir of the same A H (the same A H then being deceased) the same Gold Ring. And the same I F for the same late Q. & in the name of the said late Q. then & there to the same I H declared & expressed that the same Ring was by the same I F in the name of the said late Queen, to the same I H in form aforesaid, delivered to the end & purpose, to make void & annul the same Indenture, & all & singular in the same specified, which said Ring the same I H of the same I F then & there received & accepted, which said Letters Patents, or Commission the same I F Kn. And whosoever he had done in the execution of the same Letters Patents, or Commission in the Court of the said Lady the Queen in her Exchequer, the 6 day of May A^o Reg. 35. Certified and returned as followeth. To wit, the same I F certified and notified to the Barons of the said Lady the Queen of her Exchequer, that he the same I F the 29 day of April last past, at the house of the said Lady the Queen, called the great Wardrobe, situate in the Parish &c. within the

The Comissioner makes tender of a Gold Ring to the Heir of one of the Feoffes.

the City of London, in the presence and hearing of I H Son and Heir apparent of A H in the same Letters Patents or Commission mentioned, shewed the same Letters Patents or Commission, under the great Seal of the said Lady the Queen of England, and then and there to the same I H, publicly made known the purport, and effect of the same; And then and there the same I F by vertue of the Letters Patents or Commission then and there, for and in the name of the said late Queen, and to the use of the said Queen, to wit, the same 29. day of April A^o 36. abovesaid, in her house called the great Wardrobe, declare the same Ring so given, delivered; and tendered, to be the Tenant, and purpose to frustrate and annul the same Indenture and Assurances in the same Letters Patents, or Commissions specified for the determination and avoidance of all Uses and Estates, in the same Indenture mentioned, according to the power and authority to him by the same I F Knt. by vertue of the Letters Patents, or Commission abovesaid granted, which said Gold Ring the same I H Knt. in the same House called the great Wardrobe, the same 29. day of April, accepted and received, which said premises in the presence, sight, Aspect, and Hearing, of E G and T F E q R T and R S Gent. were done and executed; Whereby, and by vertue of the same Act of Transferring uses into possessions, and the same late Queen Eliz. was seised amongst other things of the same Mannors of W and M with the appurtenances and of the Tenements abovesaid with the appurtenances in W and M, in the same County of War. whereof &c. in her demesne, as of fee in the right of her Crown of England. And the same late Queen Eliz. so being therewith seised the same late Queen Eliz. afterwards and by the same time of the taking &c. to wit, the 14. day of July, A^o Eliz Reg 37 at Westminster, abovesaid by their Letters Patents which the same M H with the Seal of the Exchequer abovesaid here in Court bringeth, whose date is at Westminster, abovesaid the same day and year demised to W the younger, and Ja H amongst other things, the same place called the Stable in which &c. To have and to hold to the same W H the elder, and his Assignes, unto the term and for the term of the life of the same W H the elder, and after his decease surrender or forfeiture of the same W H the elder the same place, called the Stable in which &c. remained to the same W H the younger, and his Assignes. unto the term, and for the term of life of the same W H the younger. And after his decease surrender or forfeiture of the same W H the elder, & W H the younger, the same place place called the Stable, in which &c. should remain to the same Ja and his Assignes unto the term, and for the term of the life of the same I H. By vertue of which said Letters Patents, the same W H the elder was seised thereof in his demesne as of free tenement for term of his life, the remainder thereof after the decease surrender or forfeiture to the same W H the elder to the same W H the younger for term of his life in form abovesaid belonging, the remainder thereof after the decease surrender or forfeiture of the same W H the elder, & W H the younger to the same I in form abovesaid belonging. And the same W H the elder, being so thereof seised, the remainder thereof to the same W H the younger the remainder thereof further as is above limited in form abovesaid, belonging, the same W H the elder, afterwards and before the same time of the taking &c. at M near W died, after whose death the same W H the younger, into the same place in which &c. entered, and was thereof seised in his demesne as of free Tenement. & 2 term of his life by the right of his birth, & the remainder thereof to the same James in form abovesaid belonging the same VV H the younger, afterwards and before the same time of the taking &c. to wit the iii d. day of N. v. A^o R. s. 10 at M near VV demised, to the same M the same place in which &c. to have and occupy to the same M H

The Heir accepts the gold Ring.

By which tender and acceptance, and Anno 27 H. 8. of uses and the Queen was seised in Fee in the right of her Crown.

Note the pleading.

The first Lessee dieth
The second Lessee enters by right accreuing the remainder over.
The second Lessee makes a Lease to the Plaintiff for 60 years.

and

The Lessee
enters and
puts his Cattel
which were
feeding there
until the De-
fendant took
them.

and her Assignes, from the same 29 day of September then last past, until the end and Term of 60 years from thence next coming, and fully to be compleat, and ended, if the same W H the younger should so long live; By vertue of which Demise the same M H afterwards and before the same time of the taking, &c. into the same place, in which &c. entered, and was, and yet is thereof possessed; And being so thereof possessed, the same M H afterwards, and before the same time of the taking, &c. put the Cattel aforesaid in the same place, in which, &c. to eat the grasse then, and there growing; And the said Cattel were in the same place, in which, &c. eating the grasse then, and there growing until the same P H and R C the same 30 day of September Anno P H, &c. 12 aforesaid at M near W aforesaid, in the same place called the Stable, took the same Cattle of the same M, and them unjustly deteined against liberties and pledges, until, &c. As the same M above against the n complaineth; And this, he is ready to verifie, whereupon for that the same H P, and R C the taking of the Cattel aforesaid, in the same place called the Stable in which, &c. above acknowledge, the same M prayeth judgement, and her Damgages by occasion of the taking and unjust deteining of those Cattle to her to be adjudged, &c. with this, that the same M will verifie that the same W H the younger is yet surviving, and in full life, to wit at M near W aforesaid, &c. And agreement of Sachey as it appeareth, Pasch: 14 Jac. rot. 2022. and Browlow.

Judgment.

Replication to
the Barr to
the Avowry,
the Avowant
maintaines his
Avowry by
his Indenture
to the uses
aforesaid, and
the Fine ac-
cordly le-
vied, as they
before con-
fessed, &c.

And the same Hand R as before saith that the same W S was seised of the same Mannors of M and W aforesaid, and of the Tenements in VV and M aforesaid with the appurtenances, in his demesne, as of Fee, And being so thereof seised by the Indenture aforesaid here in Court, through the considerations in the same Indentures specified, covenanted, granted, and agreed to and with the same A H R G and others, &c. that the same A H R G and others, their Heirs and assignes, and every of them, and all singular, other persons their Heirs and assignes, and every of them which should have any estate or interest by form, or under these Conteynances or assurances in the Indenture aforesaid specified, or any of them, at all times should and be seised of, and in all singular the aforesaid Mannors and Tenements aforesaid with the appurtenances, whereof, &c. amongst other things to the use of the same W S and his Assignes, for and during the Term of his natural life, without impeachment of any Waste, and after the decease of the same W S then to the use and behoof of the first boyn Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the same first boyn Son lawfully begotten. And for defect of such issue, then to the use and behoof of the second Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the same second Son lawfully begotten; And for default of such issue, to the use and behoof of the third Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the said third Son lawfully begotten; And for default of such issue, then to the use and behoof of the fourth Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the said fourth Son lawfully begotten; And for default of such issue to the use and behoof of the fifth Son of the same W S lawfully begotten, and the Heirs males of the body of the same fifth Son lawfully begotten; And for default of such issue, then to the use and behoof of the sixth Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the said sixth Son lawfully begotten; And for default of such issue, then to the use and behoof of the seventh Son of the body of the same W S lawfully begotten, and the Heirs males of the body of the same seventh Son lawfully begotten; And for default of such issue, then to the use and behoof

hoof of all such other Sons which then afterwards of the body of the same VV S lawfully begotten, and of the feveral Heirs males of their feveral bodies lawfully begotten successively one after another, in such manner, and form, as they shall descend by the order of the Common law of England; And for default of such issue, then to the use and behoof of the same J, the mother of the same VV S, and the Heirs males of the body of the same J S lawfully begotten; And for default of such issue, then to the use and behoof of the said H S of M D aforesaid, and the Heirs males of his body lawfully begotten or to be begotten; And for default of such issue, then to the use and behoof of the same R S of VV aforesaid, and the Heirs males of his body lawfully begotten, or to be begotten; And for default of such issue, then to the use and behoof of the same J S of P aforesaid, and the Heirs males of his body lawfully begotten, or to be begotten; And for default of such issue, then to the use and behoof of the right Heirs of the same W S for ever: As in the barre aforesaid is above specified; And the same W S of the said Pannors of M and VV with the appurtenances, and of the same Tenements with the appurtenances in M and VV whereof, &c. as aforesaid being seized, the same fine was had and levied in the same Court of the said Lady the Queen of the Common bench here, to wit at VVest. aforesaid, between AH, RC and other Plaintiffs, & the same VV S deforcant amongst other things of the same Mes. of VV and M, and of the Tenements aforesaid with the appurtenances in VV and M, whereof, &c. which said fine in form aforesaid levied, was had, & levied to the uses in the Indenture aforesaid above specified; By vertue of which said fine, & by force of the Statute of transferring uses in to possession, made, & provided, the same W S was seized of the same Pannors of VV & M with the appurtenances, and of the Tenements aforesaid with the appurtenances, in VV & M, whereof, &c. in his demesne as of free Tenement for Term of his natural life, without impeachment of any Waste, the Remainder thereof as above is limited in form aforesaid, belonging as the same Hand R have above alleged; And the same Hand R further say, that well and true it is that by the Indenture aforesaid here in the Court brought, it was provided, covenanted, concluded and agreed, that if the same VV S at any time during the natural life of the same VV and S shou'd give, deliver or tender to the same AH, RC, &c. or to any of their Heirs, or assigns of them, or any of them, one gold Ring, or one pair of Gloves, price xij d. or more, or the sum of xij d. or more, to the same W S, then declaring and expressing that the same gold Ring, pair of Gloves, or the sum of money of xij d. was, and by him given, delivered, and tendered to the end and purpose to make void and annul the same Indenture, that then, and immediately from thenceforth all, and singular use and uses, and limitations in the same Indenture before expressed and declared, of, in, and unto all, and singular the aforesaid Pannors, Mes. Lands, Tenements and Hereditaments, and all and singular other the Premises and Every, or any part or parcel thereof should altogether cease, be void, and of none effect. And that from thenceforth afterwards all and singular fine and fines, Recovery and Recoveries, Feoffment and Feoffments, and other Convepances and Assurances aforesaid, and every of them so to be had, made, or suffered, by force, or according to the form of the Indenture aforesaid should be and remain; And all, and singular person and persons so to be Conisees, Feoffees or Recoverers, and all other person and persons which then have any Estate or Estates, Interest or Interests, or at any time from thenceforth afterwards might have, of, in, or unto the same Pannors, Mes. Lands, Tenements, Hereditaments, and all, and singular the said premises with the appurtenances in the Indenture aforesaid, above specified, or any part or parcel thereof, should stand and be

Confession of
the proviso in
the Indenture.

Confession of
the Attainder.

Reply over
and sets forth
a saving in
the same
Act &c.

seised of, and in all and singular the same Mannors, Lands, Tenements, and premises, unto the only use and behoof of the same W S, his Heirs and Assignes for ever: And to no other use, intent or purpose. And the same W S so of the same Mannors of W and M with the appurtenances, and of the same Tenements with the appurtenances in W and M, whereof, &c. among other things as aforesaid in his Demourance as of Free Tenement for Term of his life being seised, the Remainder thereof as is above limited in form aforesaid belonging, the same W by the same Act in Parliament, An. 28 Elizabeth aforesaid was attainted, and convicted of high Treason by him against the said Lady the Queen treasonably done & committed; And that the same should lose and forfeit to the same late Queen Elizab. her Heirs and Successors, all Honours, Castles, Mannors, Lands, Tenements, Rents and Reversions, Remainders, Offices, Rights, Conditions, and all other Hereditaments of whatsoever Name, Nature or Quality they are, which the same W S, or any other, or any others have had to his use, or ought to have at the day of the Treason or Offence by him the same W S committed, perpetrated or done, or at any time afterwards; And that all, and singular the same Honours, Castles, Mannors, Pes. Lands, Tenements, Rents, Reversions, Remainders, Offices, Rights, Conditions, and all Hereditaments should be deemed to be forfeited and adjudged in the Actual and Real Possession of the same late Queen Eliz. without any Office, or inquisition thereof afterwards to be taken, or found, according to the Common Law of this Realm of England; And that the same late Queen by vertue of the same Act was seised of the same Mannors of W and M with the appurtenances, And of the same Tenements with the appurtenances in W and M aforesaid, whereof, &c. in her Demourance as of Free Tenement, for Term of the life of the said W S in the right of her Crown of England; the Remainder thereof as is above limited in form aforesaid, belonging, as the same M hath above alleged. But the same H and R protest that the same I F Knight by vertue of the Commission aforesaid, in the life time of the same W S, did not deliver to the same I H Knight, and Son and Heir of the same I H one gold Ring, in the name of the said Lady the Queen, declaring and expressing that the same gold Ring was by him in the name of the said late Queen to the same I H in form aforesaid, delivered, to the end and purpose to make void and adnut the same Indenture, and all, and singular in the same Indenture specified, protesting also that the same I H received not, and accepted of the same I F the same gold Ring, to the end and purpose aforesaid. For plea, the same H and R further say, that the same Act of Parliament was provided, and made to every person and persons of bodies Politick and Corporate, and to their Heirs, Assignes and Successors, and to every of them, other than to the same W S, and his Heirs claiming the premises aforesaid, as Heirs by or under the same W, and to all other person and persons claiming the premises by him, or any of them, to his or their use and behoof, or to the use and behoof of any of them, or to the use of the Heirs of the same W All such right title, use, possession, interest, reversion, remainder, entrance, conditions, fees, offices, rents, annuities, commons and all other commodities, and hereditaments whatsoever, which they, or any of them had, or ought to have in the premises aforesaid, or in any part thereof, at, or before the treason aforesaid by the same W committed or perpetrated, in as ample manner and form, as if the same Act had never been had or made; And also all such right title, use, possession, interest, reversion, remainder, entrance, conditions, fees, offices, rents, annuities, commons, and all other commodities and hereditaments whatsoever, which they, or any of them then had, or at any time afterwards could have, only by vertue of any Consequance, or limitation

tation made before the treason aforesaid committed, or done, the same Act, or any thing therein contained to the contrary thereof in any wise notwithstanding; And in as ample manner and form as if the same Act had never been, had, or made. And the same H and R say, that the Indenture aforesaid, by the same W in form aforesaid, made, and brought here into the Court; And also the fine aforesaid thereupon levied, were had, made and levied long before the acting and committing of the same Treason, whereof the same W by the said Act of Parliament as aforesaid was convicted, and attainted. And that the same late Queen of the Pannors of W and M aforesaid, whereof, &c. in her Demeasne as of free Tenement for Term of the life of the said Ws in the right of her Crown of England as aforesaid being seised, the Remainder of the said Pannors and other the premises with the appurtenances, whereof the same I S, brother of the same Ws, and the Heirs males of the body of the same I, lawfully begotten in form aforesaid belonging, the same I S the brother, in the life-time of the same Ws, not having any issue of his body lawfully begotten. And within two years next after the last day of the Session of the same Parliament, according to the form of the Statute intituled an Act to avoid fraudulent Assurances, made by Traitors, in certain cases, to wit the same 24 day of January, in the same Term of St. Hillary, An. 31 Elizabeth. brought into the same Court of the Exchequer of the said Lady the Queen, the said Court of Exchequer at Westminster aforesaid, then being in the same Court, there the same Indenture the Remainder to the same I S, the brother in form aforesaid limited contained, with the Seal of the same W S sealed, and then there according to the form & effect of the Statute aforesaid, prayed the same Indenture to be inrolled upon Record, which said Indenture then, and there, in the same Court upon Record now remaineth. And afterwards the same I S the brother, in his life time of the same Ws at M aforesaid, dies, of his Remainder aforesaid, as aforesaid seised laster, whose death that Remainder descended to the same I S Knight, & Baronet as Son and Heir of the same I S, whereby the same I S the Son was seised of the same Remainder of the Pannors and Tenements aforesaid, and other the premises with the appurtenances, whereof, &c. as in Fee-tail and right, to wit, to him, and the Heirs males of his body lawfully begotten. And the same I S so of the same Remainder being seised, And the same late Queen Elizabeth of the same Pannor of W & M, & also of the said appurtenances in W and M aforesaid, whereof, &c. in her demesne as of free Tenement for Term of the life of the said Ws, in the right of her Crown of England as aforesaid being seised, the Remainder thereof as is above limited in form aforesaid belonging, the same Ws afterwards and before the same time of the taking, &c. at W aforesaid, died, without any issue of his body lawfully begotten. And afterwards the same late Lady Elizabeth at Westminster aforesaid, died, of the same Pannors of W and M aforesaid with the appurtenances, and of the Tenements aforesaid, in W and M, whereof, &c. in the hands of the same Lady Elizabeth as aforesaid being, after whose death the same Lord the King, now the government and Crown of this Realm of England took upon himself; By reason whereof the same Pannors of W and M, and the same Tenements with the appurtenances in W and M, whereof, &c. amongst other things unto the hands and possession of the said Lord the King now come; And the same Pannors and Tenements with the appurtenances, whereof, &c. so in the hands and possession of the said Lord the King, now being, the same I S the Son, before the same time of the taking, &c. to wit in the Term of St. Hillary, An.

Inrollment of the Indenture in the Exchequer, two years after the Act of Parliament.

Shelley atainted dieth.

The Queen demisech.

A Petition of
right exhibi-
ted in the Ex-
chequer by
him in Re-
mainder.

Judgment that
the Kings
hands be re-
moved, and he
in Remainder
be restored
into the pos-
session.

A brief repeti-
tion of the
Fine pleaded
before, and
good.

Averment.

Demurrer.

R. 6. in the same Court of Exchequer of the said Lord the King, the same Court of Exchequer at Westminster aforesaid, then being, in due form of Law exhibited a certain Petition, Complaint or Plea, his Right and Remainder to him, of, and in the said Mannors of VV and M, and of, and in the same Tenements with the appurtenances in VV and M, whereof, &c. amongst other things in form aforesaid limited, shewing, whereupon the same IS in the same Court of Exchequer prayeth judgement. And that the hands of the said Lord the King now from the possession of the said Mannors of VV and M. and of the same Tenements in VV and S, and of others the premises in the same Petition, Complaint, or Plea contained, & every parcel of them be removed. And that the same IS the Son unto his Right and title of his Remainder aforesaid, of, and in all the same Mannors and Tenements with the appurtenances, and to his possession thereof, and of every parcel thereof, together with the issues thereof, may be restored. And in such sort, thereupon in the same Court it was in the same Court in due manner proceeded, that afterwards and before the same time of taking, &c. to wit the 20 day of November, Anno Reg. 7. after mature deliberation thereof by the Barons in the same Court of Exchequer thereof had, It was considered by the same Barons, that the hands of the said Lord the King now from the possession of all, and singular the Mannors and Tenements with the appurtenances in the Petition, or Plea aforesaid, contained, whereof, &c. together with the issues, &c. according to the Right and Title of the same IS the Son, unto the possession of the same Mannors and Tenements with the appurtenances whereof, &c. together with the issues, &c. according to the Right and Title of the same IS, by him thereof demonstrated and alleged, be restored, as by the Record in the Court of the said Lord the King now here, to wit at Westminster aforesaid, remaining more fully is manifest, & appeareth, whereby the same IS the son afterwards, and before the same time of the taking, &c. into the same Mannors of VV and M, and into the same Tenements with the appurtenances in VV and M, whereof, &c. as in his Remainder aforesaid, to him as aforesaid, limited entered, and was thereof seised as in Fee-tail, and right, to wit to him and the Heirs males of his body lawfully begotten the Remainder thereof further as it is in form aforesaid limited, belonging. And the same IS so thereof being seised, the same I at the said xv. Martini, An. x. above said, levied the same Fine in the said Court of the said Lord the King, now of the Common bench here at Westminster aforesaid, between the same G W Plaintiff, and the same I S and Jane his wife, J C Knight, &c. Defendants of the same Mannors of W and M with the appurtenances, and of the same Tenements with the appurtenances in W and M, whereof, &c. by the names aforesaid; which said Fine in form aforesaid levied, & had, was had and levied to the use of the same G H and his Heirs for ever: By virtue of which said Fine, and by force of the same S of transferring uses into possession made and provided, the same G W was, and yet is of the Mannors of W and M, and of the said Tenements in W and M, whereof, &c. seised in his Demeasne as of Fee, as the same H & R have above alleged. And this they are ready to verify, whereupon they pray judgement, and the return of the Cattel aforesaid, together with their Damages to them to be adjudged, &c. which this that the same H and R will verify, that neither the same IS the brother, nor the same IS the son of the same I are any of the persons aforesaid in the same Statute above excepted, &c. And the same M H saith that the same Plea of the said H P and R, above in barr to the Avowry aforesaid by replication pleaded, and the mater, &c. Demurrer general, and Joinder; See the Case.

H 24 Eliz. rot. 439. and Fylmer. Northampt. S in reſalf. for taking of ^{Common Bull.} one Bull, the Defendant avowes and juſtifies by preſcription, to maintain a Common Bull by the Tenants, and Inhabitants of the Town of A, for the benefit and Commodity of the ſame Town.

T 14 Ja. rot 3408, and Brownlow, Wigorum ſf G P: complaineth of G F for ^{Count in Re-} taking of 2 Sheep, 4 Novemb. Anno 13. at C in a certain place called A, ^{plevin.} otherwiſe B A.

And the ſame G F, when, &c. and as Bailiff of I G, well acknowledgeth The Defend. the taking of the Cattell aſoſeſaid, in the ſame place, in which, &c. And juſt: makes Conu- ly, &c. becauſe he ſaith, that the place wherein the taking of the Cattell ſons of taking aſoſeſaid, is ſuppoſed to be don, both contain; And the time in which the ta- the Cattell king of the Cattell aſoſeſaid was ſuppoſed to be don, did contain in it ſelf, ſant as Bailiffs 5 Acres of Paſture with the appurtenances, in C aſoſeſaid; And that of the Te- long beſore the ſame time, in which, &c. one I C Gentlemen, was ſeiſed of nant by ex- the ſame 5 Acres of Paſture with the appurtenances, in which, &c. with the tent after a appurtenances amongſt other things in his Demeſne as of fee. And liberate upon ſo being thereof ſeiſed, the ſame I C afterwards and beſore the ſame time, in the Statute which, &c. to wit the 20 day of February, Anno Ed. 6. 7. at C aſoſeſaid, de- Staple. miſſed to one I F the ſame 5 Acres of Paſture with the appurtenances, in which, &c. amongſt other things to have, and occupy to the ſame I F, and his Aſſignes from the feaſt of the Annunciation of the bleſſed Virgin Ma- ry, which then ſhould be in the year of our Lord 1558, unto the end, & term of 400 years from thence next following, and fully to be compleat and ended; By vertue of which demiſe the ſame I F afterwards to wit in the morrow of the ſaid feaſt of the Annunciation, &c. into the ſame 5 Acres of Pa- ſture with the appurtenances, into which, &c. amongſt other things en- tred, and was thereof poſſeſſed; And ſo being thereof poſſeſſed the ſame I F afterwards to wit the 22 day of A, Anno prim. Eliz. at C aſoſeſaid, made his laſt Will and Teſtament in writing; And by the ſame Will gave and be- queathed his whole State, Right, Title and Interſt, and Term of years which he then had to come of, and in the ſame 5 Acres of Paſture with the appurtenances, in which, &c. amongſt other things unto one Anne, then his Wiſſe, for Term of y life of the ſame Anne. And after the deceaſe of the ſame A, the Remainder of the ſaid Term then to come to Joan F daughter ^{the Remainder of the Term.} of the ſaid Jo. F. and the Heirs of the body of the ſame Jo. lawfully begotten. And the ſame A the Executrix of his ſaid Teſtament, made, and ordained. And afterwards and beſore the ſame time, in which, &c. at C aſoſeſaid, died ^{Entail of the Term.} of the ſame 5 Acres of Paſture with the appurtenances, in which, &c. amongſt other things in ſorm aſoſeſaid poſſeſſed. After whoſe death, and beſore the time, in which, &c. the ſame Ann the burthen of the Execution of the Teſtament aſoſeſaid, took upon her ſelf, and into the ſame 5 Acres of Paſture with the appurtenances amongſt other things entred, and was thereof poſſeſſed by vertue of the Legacy aſoſeſaid; And being ſo thereof poſſeſſed the ſame A afterwards, and beſore the ſame time, in which, &c. to wit the 20 day of January, Anno 15 Elizabeth at C aſoſeſaid died, of ſuch her Eſtate of, and in the ſame 5 Acres of Paſture with the appurtenances, in which, &c. in ſorm aſoſeſaid poſſeſſed. After the deceaſe of which ſaid Ann: ^{Poſſeſſion of the remainder by the Legatee} And beſore the ſame time in which, &c. to wit the ſame 20 day of January, Anno 15 abovesaid the ſame Jo. into the ſame 5 Acres of Paſture with the appurtenances, in which, &c. amongſt other things entred, and was of the reſidue of the ſame Term of the ſaid 40 years, then to come of, and in the ſame 5 Acres of Paſture with the appurtenances, in which, &c. amongſt other things

Grant of the
remainder for
term.

The Grant of
the term ac-
knowledgech
and recogni-
zance.

Extent issuing
out of Chancery
for default
of payment.

A lay man and
not found.

things possessed by virtue of the Legacy aforesaid, And being so thereof possessed the same so an afterwards and betore the same time, in which, &c. to wit the 21 day of April, Anno 15th Eliz. aforesaid at C aforesaid, took to Hysband one W A, whereby the same W and I were of the residue of the said Term of 40 years yet to come of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. amongst other things possessed. And the same W and I being thereof possessed the same W and I afterwards to wit the 15 day of March Anno 27th Elizabeth at C aforesaid granted to one R W their whole Interest & Term of years, which they then had to come and in P the same 5 Acres of Pasture with the appurtenances, in which, &c. amongst other things; By virtue of which said grant the same R W afterwards, and before the same time, in which, &c. to wit the same 15 day of March, Anno 27th aforesaid, into the said 5 Acres of Pasture with the appurtenances, in which, &c. amongst other things entered, and was of the residue of the same 40 years then to come of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. amongst other things possessed. And the same R being so thereof possessed the same R afterwards and before the same time, in which, &c. to wit the 17 day of May, Anno Reg. 7th at West in the County of Middlesex, by his certain Writing obligatory before T F Baitht, then chief Justice of the Lord the King assigned to hold pleas before the same Lord the King, according to the form of the Statute in the Parliament, Anno H 8. 23 for the acknowledgement of Debts, made granted himself to beholden to the same I G in 200 l. of lawfull money of England, to be paid to the same I at the feast of Pentecost then next coming. And if he should fail in payment of the Debt aforesaid, the same R would and granted that then the Penalty should run upon him in the Statute Staple for Merchandizes in the same bought to be recovered, or depayed & provided; And for that the said R payed not y same I G at the said feast of Pentecost the same 200 l. the same I G afterwards, and before the same time in which, &c. to wit the 4 day of March, Anno Reg. 12 for the better Recovery of the said 200 l. prosecuted out of the Court of Chancery of the Lord the King, now, the same Chancery at Westminster in the County of Middlesex then being, a certain Writ of the said Lord the King, then directed to the Sheriff of the C. of Wicor. By which said Writ the same Lord the King, now to the same then Sheriff commanding; That the same then Sheriff the body of the same R W, if he be a Layman he take, and in the prison of the said Lord the King now, until the same I G of the said Debt of 200 l. be fully satisfied, safely to be kept. And all the Lands and Chattels of the same R in y Bailiwick of the same then Sheriff by the Oath of twelve honest and lawfull men of the same Bailiwick, by whom the truth of the matter may be the better knowen, according to the true value of them he diligently extend and appraise, and cause to be seised into the hands of the Lord the King now, that the same to the said I G until he be satisfied fully of the same Debt of 200 l. the said Lord the King cause to be delivered according to the form of the Statute for recovery of such Debts thereof made and provided. And how the said then Sheriff the said precept of the said Lord the King now he should execute the said then Sheriff should make now known to the said Lord the King, now in his Chancery aforesaid, in Crastino Ascensionis Domini, then next following, whereforever he should be by the Letters of the then Sheriff sealed. And that the then Sheriff should then have there that Writ; At which said Crastino Ascensionis Domini, before the said Lord the King in his Chancery aforesaid at Westminster aforesaid came the same I G by L S then his Attorney; And the said then Sheriff of the County of Wicor. to wit S T Esquire, then there returned the same Writ served and executed in form following

to wit that the same R W was then a Layman, and was not then found in the Bayewick of the same then Sheriff; And the same then Sheriff then returned in the same Court of Chancery of the Lord the King a certain Inquisition to the same Writ then annexed before the same then Sheriff at W. into the same County of Worcester the 15 day of April then last past, by the Oath of 12 honest and lawful men of the same County of Worcester taken, by which it was then found that the same R W the same 17 day of May Anno 7^o above said, was, and the same day of the taking of the Inquisition aforesaid did stand seised in his Demeasne, as of Fee, and in one Mes. The Jury called P, one Cottage, and 4 Acres of Land, containing by estimation 11 found that the Acres with the appurtenances, lying and being in C aforesaid, in the same Conitor was County of W of the yearly value in all issues, besides reprises 66s. 8 d. possessed of the term aforesaid, by legal conveyance at the day of the inquisition taken, and value it to 40 l.

And further by the Inquisition aforesaid, it was then found that the same 21 day of February Anno 7^o Ed 6. above said, the same I C was seised in his Demeasne, as of Fee, of and in a certain Close of Land, containing in it self by estimation, 5 Acres called B, lying and being in C aforesaid, in the same County of W abutting upon C Meadows there. And of, & in one other Close of Land, containing in it self by estimation 4 Acres, lying near N, Crosse abutting upon C, way in C aforesaid, & of, & in 2 parcels of Land, containing together by estimation three Acres, lying in C aforesaid, in a certain Leasow there late called B W Leasow between the Lands of the said Lord the King on the East and West sides, and abutting upon the Kings way leading towards the Church of C aforesaid on y^e North; And that the same I C being so thereof seised afterwards to wit the same 20 day of February, Anno 7 Ed. 6. above said, by his certain Indenture with his Seal sealed, bearing date the same day and year, made between the same I C by the name of I C of W, were of W, near W in the County of W gent. of the one part, and the same I F by the name of I F of C in the County of W husbandman, of the other part demised to the same I F the same close of Land called B, & the same other close of Land lying near N Crosse, and also the same two parcels of Land lying in S field aforesaid; And also the same 2 parcels of Land lying in the same Leasow called B W Leasow, with all, and singular their appurtenances to have, and to hold to the same I F and his Assignes from the Feast of St. Mich, &c. which should be in the year of our Lord 1588, until the end and Term of 400 years from thence next following, and fully to be compleat and ended. And y^e by vertue of the same demise the same I F into the Tenements aforesaid to him by the Indenture aforesaid, demised, entered & was thereof possessed. And further by the Inquisition aforesaid, it was then found that the same R W, the same day of the taking of the said Inquisition by sufficient conveyance in Law was possessed of, and in the whole residue of the said term of 400. years then to come. And that the same residue of the said term of 400. years, then not expired of the premises aforesaid, by the Indenture aforesaid, demised was worth in all Issues, besides Reprises, 40 l. And that the same R W the same 17 day of May, A^o 7^o above said, nor at any time afterwards, had any other or more Lands, or Chattels, in the same County of W which they could extend or appraise, or into the Hands of the King now could seise or now can. As to the Jurors of the Inquisition aforesaid, then by any means could be made appear. And the same Sheriff of W to the said Lord the King, into the same Court of Chancery aforesaid, at Westminster, aforesaid, then further returned, that the said, then Sheriff all and singular the premises aforesaid, with the appurtenances, the same day of the taking of the Inquisition aforesaid, caused to be seised, extended, and appraised by a reasonable price and extent into the hands of the Lord the King now, as by the same Writ to him it was commanded &c. And after-

Return of the extent.

Inquisition taken.

The Jury found that the Conitor was possessed of the term aforesaid, by legal conveyance at the day of the inquisition taken, and value it to 40 l.

Jurators value the Lease.

The Conitor had no other goods nor chattels.

A Liberate awarded upon such an extent.

Extent & the proceedings thereupon recited.

Return of the Liberate to the Comisee.

Entree of the Comisee after the Liberate

Damage Fesant Avouchment

afterwards, to wit, the 28 day of June, A^o Rs. 13^o. at the prosecution of the same I G issued out of the same Court of Chancery, of the said Lord the King, now another writ of the said Lord the King, De Liberate; To the then Sheriff of the County of W directed, by which said writ, the said Lord the King now to the same then Sheriff, commanded that the same then Sheriff, the same Messuages, Cottages, Lands, and residue of the aforesaid term of 400 years aforesaid, he should deliver it the same be the extent aforesaid, he would receive, to have the residue of the same term of 400 years, to the same I G in part of satisfaction of his debt aforesaid, together with his Damages, Costs, and Expences, which he in that behalf had reasonably sustained, should be fully satisfied. And that nevertheless the same then Sheriff, the body of the same R W if he should be a lay-man, to take and imprison of the said Lord the King, until the same I G of his Debt, Damages, Costs and Expences, had fully satisfied, safely cause to be kept in form aforesaid. And in as much as the same Sheriff, shall have executed that precept of the said Lord the King, the said Sheriff should make known to the said Lord the King, in Chancery aforesaid, in xv Sar. Mich. then next coming, whersoever he should be by the Letters of the same then Sheriff sealed. And that the then Sheriff should have there that writ, at which said xv Sar. Mich. before the said Lord the King in his Chancery aforesaid, came the said I G by the same W S then his Attorney. And the Sheriff of the County of W to wit the same T S then returned into the same Court of Chancery of the said Lord the King, the writ De Liberate, served and executed in form following, to wit, that he by virtue of the same writ to him directed, the 10th day of July, A^o 13^o Rs. caused to be delivered to the same I G all and singular the Messuages, Cottages, Lands, and the same residue of the same term of the said 400 years, to hold the same residue of the same term to the same I G in part of satisfaction of his debt aforesaid. And also to hold the Messuages Cottages, and Lands aforesaid, to the same I G and his Assignes, as his free hold, until unto him of the residue of the same debt, together with his Damages, Costs, and Expences, which he in that behalf had reasonably sustained, should be fully satisfied. And the same then Sheriff of the County of W to the same Lord the King at his Chancery aforesaid, at Westminster. the further returneth that the same R W was then a lay-man, and was not then found in the Bailiwick of the said then Sheriff as by the Record and proceedings therein in the same Court of Chancery, of the said Lord the King at Westminster. aforesaid, remaining more fully appeareth. And the same G F in fact saith that the same 10th. day of July A^o 13^o aforesaid, the same S T then being Sheriff of the same County of W at C aforesaid, by virtue of the said writ of the said Lord the King De Liberate, caused to be delivered to the same I G the whole residue of the same, term of 400 years, yet to come of, and in the Tenement aforesaid, with the appurtenances by the same I C to the same I F in form aforesaid, demised in part of satisfaction of the same 200 l. By precept whereof, the same I G afterwards and before the same time in which &c. to wit, the same Tenth day of July, A^o 13^o aforesaid, into the same 5 Acres of Pasture, with the appurtenances amongst other things as into parcel of the premises aforesaid, to the same I G; by virtue of the same writ of Liberate, by the same then Sheriff of the same County of W in form aforesaid, entered and was, and yet is of the residue of the same term of 400. years, yet to come of and in the same 5 Acres of Pasture, with the appurtenances, in which &c. amongst other things possessed. And because the same Cattle were in the same place in which &c. eating the grasse then there growing, and doing of damage there, the

same

same G F as Bayliff of the same IG well acknowledge the taking of that the place the Cattel aforesaid, in the same place in which &c. And justly &c. in which &c. there so doing damage &c. with this that the same G will verifie that the same place called B, in which &c. is and at the same time in which &c. is parcel of the same tenements demised and delivered. was parcel of the same tenements contained in the same demise by the same IC to the same IF above specified. And by the same Sheriff to the same IG by vertue of the same Writ D. Licetate, in form aforesaid delivered &c.

And the same G P saith, that the said G F as the Bayliff of the same IG for the reason before alleged, the taking of the Cattel aforesaid in the same place in which &c. ought not justly to acknowledge, because he saith, that long before the same time of the taking of the Cattel aforesaid done, and before the same 15 day of March, Anno Eliz. 27. aforesaid, by a certain Act in Parliament, of the said Lady the Queen at Westminster, in the County of Midd. the 2 d. day of April Anno &c. 130. held, amongst other things it was enacted by the authority of the same Parliament, that a certain Act made in the Parliament of the Lord H. late King of England, the 8 at Westminster aforesaid, Anno 37. for the Reformation of usury from and after the 25 day of June next following, after the same 2 d. day of April Anno 130. R. aforesaid, should be revived and stand in full strength, force, and effect, in which said Act made in the Parliament of King H. the 8 Anno 37. aforesaid, amongst other things it was enacted by the authority of the same Parliament, That no Person or Persons, of what State, Degree, or condition soever he or they be at any time after the last day of January, in the same Statute of Anno 37. above specified, by way or means of any corrupt Bargain, Land, Exchange, Treasance, Shift, Interest, of any Wares, Merchandises, or other Thing or Things whatsoever, or by any other corrupt or deceitful way or means, or by any cunning engine or deceitful way or contrivance should have, receive, accept, or take, in lure or gain, for the forbearing or giving of day of payment for one whole year, or of and for his or their Money, or other thing that should be due for the same Wares or Merchandises, or other Thing or Things above the sum of 10 l. in the hundred. And so after that rate, and not above, of and for a more or lesser sum, or for a longer or shorter time, and no more or greater gain, or sum thereupon to be had, upon the paines and forfeitures in the same Statute mentioned and contained. As by the same Act made in the year 37. aforesaid, amongst other things more fully appeareth. And it was further enacted by the authority of the same Parliament, of the said Lady the Queen held at West. aforesaid, Anno &c. 130. aforesaid, that all Bonds, Contracts, and Arrances Collaterall, or others to be made for payment of any principal, or Money to be lent, or Covenant to be performed, upon or for any usury in revenue, or doing any thing against the same Act then revived, upon or by which lone or doing there should be reserved or taken above the rate of 10 l. for the 100 for one year should be utterly void. As by the same Act D. Anno 130. aforesaid more fully appeareth. And the same G P saith that the same W A and Joan his Wife of the same 5 Acres of pasture with the appurtenances in which &c. and in other the premises in the acknowledgement aforesaid, specified for the residue of the same term of 40 years, then to come being possessed in manner and form as the same G F in his acknowledgement aforesaid above allegeth, the same W A after the making of the same Act of the years 130. aforesaid, and before the same grant, by the same W A, and Joan his Wife, of the same 5 Acres of pasture, with the appurtenances in which &c. and other the premises to the same R W in form aforesaid, made, to wit, the

The Defendant pleads in bar to the Avoirry the St. 13 Eliz. cap. of Usury, and pleads that one of the Allignes of the term mortgaged his term to the Connisor in St Staple upon usurious contract, and that thereupon the mortgage is void, & sheweth that the mortgagor died possessed of his Execucor granted the same to an Estranger, who granted it over to another Estranger, who gave license to the plaintiff to put in his goods &c. Statute of Usury.

Usurious contract.

the 13 day of March, Anno Reg. 27 abovesaid at Cateshal, borrowed of the same R W Plaintiff to be forborne by thre years then next following. And thereupon then and there it was corruptly covenanted and agreed between the same R W and the same W A, that the same R W should have of the same W A for gain and profit, for forbearing and giving day for payment of the same 40 l. until the end of the same 3 years then next following 8 l. to the same R W at the end of the same 3 years to be paid. And that the same W A and I. for the secure payment aforesaid of the same 40 l. of the principal Debt aforesaid, as for the same 8 l. for the usury and profit for the forbearing, and giving of day for payment for the same 40 l. until the end of the same 3 years then next following, should grant and assigne to the same R W their whole Estate, Right, Title, Interest and Term of years, which they then had to come in the same 5 Acres of Pasture with the appurtenances in which, &c. and the other premises to hold, and to occupy to the same R W and his his Assignes, for, & during y^e whole residue of y^e same Term of 400 years, being then to come, & unexpired. And further then and there, it was corruptly covenanted and agreed between the same R W and W A, that immediately after the same grant and assignement of the said Term of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises by the same W A, and Johan in form aforesaid, to be made the same R W, should re-assure and regrant to the same W A, the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises aforesaid, with the appurtenances to have, and occupy to the same W A and his Assignes for, and during the Term of 3 years then next following, and fully to be compleat and ended, yielding & paying therefore yearly to the same R W and his Assignes iij l. 6 s. viij d. of lawful money of England, at two the most usual feasts in the year, to wit at the feast of St. Mich. the Archangel, and the Annuntiation of the blessed Virgin Mary, by equal portions, to be paid. And the same G P further saith, that the same 5 Acres of Pasture, in which, &c. and other premises with the appurtenances at the time of the corrupt agreement, and afterwards afterwards were, and yet are of the clear yearly rent of iij l. vj s. viij d. and above. And that the same W A and I of the same 5 Acres of Pasture with the appurtenances, in which, &c. and other then premises in form aforesaid, being possessed the same W A and I in the full accomplishment and performance of the corrupt agreement aforesaid, afterwards and before the same time of taking, &c. to wit the same 15 day of March, Anno 27. abovesaid at Cateshal, granted to the same R W their whole Estate, Right, Title Interest and Term of years, which they then had to come of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises with the appurtenances; By virtue of which said grant the same R W afterwards, and before the same time of the taking &c. to wit the same 15 day of March, Anno 27. abovesaid, into the same 5 Acres of Pasture with the appurtenances, into which, &c. and other the premises within y^e appurtenances entred, and was therof for the residue of the same Term of 400 years, then to come of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises aforesaid with the appurtenances possessed. And the same R to being therof possessed the same R, after the said grant & assignement of y^e same Term of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises aforesaid, with the appurtenances by the said W A and I to the same R, in form aforesaid made, and before the same time of taking, &c. to wit the last day of March, Anno Eliz. 27. abovesaid, at Cateshal, demised to the same W A, the same 5 Acres of Pasture

Performance
of the U-
sury Contract.

Pasture with the appurtenances, in which &c. and other the premises aforesaid with the appurtenances to have, and occupy to the same VV A and his Assignes from the Feast of Easter, then next following unto the end and Term of three years from thence next following, and fully to be compleat and ended, yielding and paying therefor yearly, during the same time to the same R VV and his Assignes iij l. vi s. viij d. of lawful money of England, at the Feast of S. Michael, &c. And the Annunciation, &c. by equal portions to be paid, according to the form and effect of the corrupt agreement aforesaid, which said iij l. vi s. viij d. of the Rent aforesaid for the same 5 Acres of Pasture with the appurtenances in which, &c. and other the premises aforesaid, with the appurtenances yearly in form aforesaid, reserved, and the same viij l. for usury and profit aforesaid, for bearing and giving day of payment of the same 40 l. until the end of three years, according to the rate extolled the sum of 10 l. for a 100. for one whole year against the form of the Statute aforesaid, of the year 13 abovesaid, whereby the same grant of the said Term, of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises aforesaid by the same W A, and Jo. to the same R W in form aforesaid, made and by force of the Statute de Anno 13 abovesaid, became utterly void, and of none effect, and force in Law. And the same G P further saith, that afterwards and before the same time of the taking, &c. the same Jo. at C aforesaid, died: And the same W A him survived. After the death of which said Johan the same W A afterwards and before the same time of taking, &c. to wit the first day of December, Anno Reg. 35. at C aforesaid, made his last Will and Testament in writing; And by the same last Will constituted and ordained one G A, to be the Executor of the Testament aforesaid: And afterwards, and before the time of taking, &c. at C aforesaid died of the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises aforesaid possessed after the death of which said W A, the same G A the burthen of the execution of the Testament aforesaid upon himself took, and afterwards and before the same time of the taking, &c. into the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises aforesaid with the appurtenances, entered and was possessed; And so being thereof possessed the same G A afterwards and before the same time of the taking, &c. to wit the 18 day of March, Anno Reg. 10. at C aforesaid, granted to one I S gent. his whole State, Right, Title, Interest and time of years, which he then had to come of, and in the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises: By vertue of which said grant the same I S afterwards and before the same time of the taking, &c. into the same 5 Acres of Land with the appurtenances, in which, &c. and other the premises aforesaid with the appurtenances, entered and was thereof possessed; And the same I S being so thereof possessed the same I S afterwards and before the time of the taking, &c. to wit the 11 day of April, Anno Reg. 13. at C aforesaid, granted to one I B the whole State, Right, Title, Interest, and Terms of years which he then had to come of, and in the same 5 Acres of Pasture, in which, &c. and other the premises with the appurtenances: By vertue of which said grant the same I B afterwards and before the same time of the taking, &c. into the same 5 Acres of Pasture with the appurtenances, in which, &c. and other the premises entered, and was, and yet is thereof possessed; And the same I B being so thereof possessed the same I B afterwards, and before the same time of taking, &c. to wit the third day of November, Anno 13. abovesaid, at C aforesaid, gave liberty to the same G P, to put in the Cattel aforesaid, into

Entry of the
Grantee.

Grantee grants
over his term.

Entry of the
Grantee.

The Grantee
gives liberty
to the Plain-
tiff, to put in
his Cattel,
and that he
put in his
Cattel.

into the same 5 Acres of Pasture with the appurtenances, in which to eat the grass then there growing: By virtue of which said writ the same G P afterwards and before the same time of the taking, &c. put his Cattel aforesaid into the same 5 Acres of Pasture with the appurtenances, in which, &c. to eat the grass, then there growing; And the Cattel aforesaid, were in the same 5 Acres of Pasture with the appurtenances, in which, &c. eating the grass then there growing, until the same G F the same fourth day of November, Anno 13. aforesaid, at C aforesaid, in the same place called A otherwise B A took the same Cattel of the same G P, & them unjustly detained against liberties and pledges, until, &c. As the same G F above against him complaineth; And this he is ready to verify, whereupon for that the same G F the taking of the Cattel aforesaid, in the same place, in which, &c. above acknowledged the same G P prayeth judgement, and his Damages by occasion of the taking and unjust detaining of the Cattel aforesaid, to him to be adjudged, &c.

Judgement for Default of Replication a Writ to inquire of Damages awarded.

Whereupon the same G F to reply to the Plea of the same G P, above in barr of the acknowledgement of the same G P aforesaid pleaded, being solemnly called, came not but made default; By which the same G P his Damages by occasion of the taking, and unjust detaining of the Cattel aforesaid, against the same G F ought to recover. But because it is not known what Damages the same G P sustained by occasion of the taking and unjust detaining of the Cattel aforesaid. It is commanded the Sheriff that by the Oath of honest and lawful men of his County, he diligently inquire what Damages the same G P sustained, as well by the occasion of the taking and unjust detaining of the Cattel aforesaid, as for his costs and charges by him about his sute in this behalf laid out. And the Inquisition, which, &c. the Sheriff make to appear here in Oðab. Sc. Mich. under the Seal, &c. and Seals, &c.

The time in the Count in Replevin traversed.

M. 4. and 5 Eliz. rot. 651. Count in Refalc. of taking of goods, 22 April 4. the Abbot and abboteth the taking 23 April 4 Eliz. in his freehold, and traverseth the taking the 22 day, &c.

Acowry for Sute of Court undone.

M. 13. rot 737 ff the Defendant saith that the Plaintiff was seised of one Messuage, and 20 Acres of Land with the appurtenances in H. And that he held them of the same G F as of his Mannors of H aforesaid, by Fealty, Rent, and Sute of Court, of which services the same F was seised by the hands of the same W M, as &c. to Wit of Fealty, and Sute of Court, as in Fee and Right, and of the Rent aforesaid, as in his Demeasne, as of Fee, of which said Mannors with the appurtenances the same F before the same time, in which, &c. and also the same time, in which, &c. was seised in his Demeasne, as of Fee. And because the same W M of the Tenements aforesaid with the appurtenances in F aforesaid, being seised at the Court of the same F of his Mannors aforesaid, held at the same Mannors the 16 day of Oð. Anno, &c. and 1. came not to make his Sute to the same Court, the same T as Bayliff of the same F, well aboteth the taking of the Cattel aforesaid in the same place, in which, &c.

Acowry for special services, and for aide in Creating of a new Bishop.

H. 14 E. 1. rot 175. Fol. 7. ff. in Replevin the Plaintiff Count of the taking of several Cattel, at several dayes and places, &c. the Defendant aboteth for Homage, Fealty, Rent, Sute of Court, &c. and to make an inclosure about the Park of the same of the same Defendant in the same Town of 24 perches, when it should be necessary at the costs of the Plaintiff.

but to take the Wood to build the same inclosure of the Wood of the said Plaintiff, and to create another new Bishop in App of the same Bishop, to be done in the same Town of E. assessed at xx s. & vj d. And if more more, &c. And if Lesse lesse, &c. And because the inclosure about the same Park was not made by the Default of the same Plaintiff the day of the taking of the same Cow, took the same Cow. And because in the Creation of the same Bishop, the same Town was Assized at 20 Parks, for the said Afo, unto which Afo the same Plaintiff ought to contribute 17 s. according to the proportion of so many pounds, &c. And because the same portion so happening to the said Plaintiff the day of the taking of the said Heifers, and 3. Cows was in arrears, aboweth the taking, &c.

T. 10. Eliz. rot. 1320. Kanc. ff. R. M. was summoned to answer G S gent. T 19 Ia. rot. of a Plea, wherefore he took the Cattel of the same G, and them unjustly 3145. Count detained against suerties and pledges, And whereupon the same G by I F in Replev. his Attorney complaineth that the said R the fourth day of M. Anno 10. for taking in at S in the same County of Kent, in a certain place called C. took the Cat- in several tel, to wit one Mare, and one gelding of the same G, and them from thence Counties, and unto T in the County of S chased, and them there impounded, and in Park several Pleas, there unjustly detained against suerties and pledges, until one E D Esquire, and several Sheriff of the County of S, the same Cattel to the said G, at his com- issues upon Replev. T 21 plaint caused to be replevied, whereupon he saith, that &c. I. rot. 1987 H.

31 Eliz. rot 356. like. Several Counties in Replevin.

H. 45. Eliz. rot. Brownlow Berk. Oxon. ff. C F gent. EB, and C T re. E Count in Re- W gent. wherefore they took the Cattel, &c. And whereupon the same E plevin for ta- W by I K his Attorney complaineth, that the same C F E and C T the first king in one of June. An. 44. Eliz. at L. in the County of B in a certain place there called County, and E, took the Cattel to wit 454 Sheep of the same E W; And the same Cattel impounding from thence unto L B, in the same County of B, which said Town of L B County by is within the liberty of the honour of E, which said honor doth extend it self, Accedas ad alwel into the same County of B, as in the same County of O. the Court of Cur. of which said Honor when it happeneth to be held, is alwayes held, and from the time whereof the memory of man is not to the contrary, was alwayes held at E. being parcel of the said Honor in the same County of O, and not in any other place, out of which said Court the Plaintiff of the Complaint aforesaid, by vertue of a Writ of the Lady the Queen, now De Accedas ad Cur. directed to the Sheriff of the County of O, is now here had, chased, and in a Common Park impounded, and unjustly detained against suerties and pledges, until, &c. The Defendant aboweth for arrerages of an Annuity, Plaintiffe de son tort Demesne, and traverseth the grant, and they joyned upon the Concessit.

T. Ja. rot. 1513. Brownlow ff. I. P. Clerk complaineth of E I. that 9 Dec. Count in Re- Anno 5 Ja. at the Town of I in a certain place there called I Croft, took plevin. the Cattel to wit 5 Cows, &c.

And the same E by A S his Attorney cometh, &c. and well aboweth Avowry by th; taking of the Cattel aforesaid in the same place, in which, &c. And Lessee for justly, &c. because he saith that the same place in which the taking of the years, and fur- Cattel aforesaid, supposed to be done, doth contain, And the same time in ther saith, that which the taking of the Cattel aforesaid is supposed to be done, did contain- fessed of the in it self 13 Acres, and 3 Roods of Pasture in the same Town of N, Cattel as of whereof, and at the same time, in which, &c. one F C Esquire, was seised in his own Cat- his Demesne, as of fee; And being so thereof seised the same F, before tel, being in the same.

places until the Plaintiff caused the same good, to be replevied out of the possession of the Avowant, and traverseth that the Cattel at the time of the taking, were the Cattel of the Plaintiff.

h h h h h

the

the same time, in which, &c. the same 13 Acres, and 3 Roods of Pasture with the appurtenances amongst other things incoffed 1 L. Esquire, and W F Gent. To have, and to hold the same 13 Acres, and 3 Roods of Pasture, with the appurtenances, to the same I L and W F, and their Heirs to the use of the same F, and of one Margaret then his Wife, and to the Heirs and Assignes of the same F for ever. By vertue of which Feoffment and force of a certain Statute in the Parliament of the Lord Hen. late King of England the 8. at Westm. in the County of Mid. the fourth day of Feb. An. 27. for transferring uses into possession, held, made, the same F and M, his Wife were seised of the same 13 Acres, and 3 Roods of Pasture with the appurtenances in their Demesne, to wit the same F as in fee, and the same M as of free Tenement for Term of her life; And the same F and M so being thereof seised, the same F afterwards and before the same time, in which, &c. at the same Town of St. N died of such his Estate thereof seised; And the same M survived him, and kept herself within, in the same 13 Acres, and 3 Roods of Pasture with the appurtenances, and was thereof solely seised in her Demesne, as of free Tenement for Term of her life, by right of Survivorship, And being so thereof seised, the same M afterwards and before the same time, in which, &c. to wit the first day of October, Anno, &c. of England the 4. and of Scotland the 40. at the Town of N aforesaid, demised to the same E the same 13 Acres, & 3 Roods of Pasture with the appurtenances, to have, and to occupy to the same E and his Assignes, from the Feast of St. Mich. the Arch. angel, then last past, unto the end and Term of 7 years from thence next following, and fully to be compleat and ended, if the same M shall so long live; By vertue of which demise the same E afterwards and before the same time, in which, &c. into the same 3 Acres, & 3 Roods of Pasture with the appurtenances, entered, and was thereof possessed. And the same E further saith, that he the same E afterwards and before the same time, in which, &c. was possessed of several Cattel, in the Declaration aforesaid, above specified, as of his own Cattel; And being so possessed of them, and likewise of the same 13 Acres, and 3 Roods of Pasture with the appurtenances, in which, &c. in fee aforesaid being possessed, the same E afterwards, and before the same time, in which, &c. put the Cattel aforesaid into the same 13 Acres, & 3 Roods of Pasture with the appurtenances, to eat & graze then there growing. And the same Cattel were in the same 13 Acres, and 3 Roods of Pasture with the appurtenances, in which, &c. the graze in the same then growing, eating, so in the possession of the same E, as his own Cattel the same time, in which, &c. being, until the same I R the same time, in which, &c. the same Cattel out of the possession of the same E, the graze in the same 13 Acres, and 3 Roods of Pasture with the appurtenances, being, eating, as the proper Cattel of the same I caused to be replevied, without this that the Cattel aforesaid, in the Declaration aforesaid, above specified, the same time, in which, &c. were the Cattel of the same I P, As the same I by his Declaration aforesaid, above supposed. And this he is ready to verifie, whereupon he prayeth judgment and return of the Cattel aforesaid, to him to be adjudged, &c. with this, that the same E will verifie that the same M is yet surviving and in full life, to wit at the Town of N aforesaid, &c.

And the same I P saith, that the same E for the reason before alleged, the taking of the Cattel aforesaid, in the same place, in which, &c. justly ought not to abide, because as before, he saith that the Cattel aforesaid, in the Declaration aforesaid, above specified, at the same time of the taking, &c. were the Cattel of the same I P, as he hath above declared; And this he prayeth may be inquired of by the Country, and the same E likewise. Therefore the Sheriff is commanded that he cause to come here, &c. xii. &c. no judgment.

Feoffment to the use of the Feoffor in Fee, and to his Wife for life.

27 H. 8. uses.

Jointenancy to wit to one in Fee, and to another for life.

The Feoffor dieth, and the feme enters by right of Survivorship. Feme lets a Lease for years.

Entry of the Lessee.

Lessee possessed of the Cattel as of his own, Cattel.

The Plaintiff replevied the Defendants goods, out his possession. The property of the goods traversed. Averment that the Lessee is living.

Issue upon the Traverse that the goods were the Plaintiffs own and at the time of the taking.

T. 6 Jac. rot 1611. Brownlow Cantabr. ff. 1 C. complaineth of B C for the taking of three Horses, the 19 of Oct. in y^e 5 year of King James, at T St. h. in a certain Close, there containing 2 Acres of Pasture against suerties and pledges, &c. And makes conscience as Bailiff of I W in y^e place, in which, &c. And saith, that the place in which the taking of the Cattel aforesaid, is supposed to be done, containeth, and at the aforesaid time of the taking of the Cattel aforesaid, supposed to be done, did contain in it self two Acres of Pasture with the appurtenances, in T aforesaid, lying there in a certain field called S field, near the Lands, late of R. W. in times past of R D on the South, &c. And that one H C afterwards and before the time, in which, &c. was seised of the same two Acres of Pasture with the appurtenances, in which, &c. in his Demesne, as of f^ree; And holds the same two Acres of Pasture with the appurtenances of one W S. as of his Mannor of R with the appurtenances in T St. E aforesaid, by Fealty and Rent of xiiij d. in every year at the feast of St. Michael the Archangel, to be paid by equal portions, And also by the service to make Suite to the Court of the said W S, at his Mannor aforesaid, from three weeks to three weeks, upon reasonable summons, at his Mannors yearly to be held, of which service the same W S was seised by the hands of the said H C, as by the hands of the true Tenant, to wit of Fealty, and lute of Court aforesaid, as in f^ree, and Right, and of the Rent aforesaid in his Demesne, as of f^ree, of which said Mannors with the appurtenances, the same W S was seised in his Demesne, as of f^ree; And being to thereof seised, the same W S, before the same time, in which, &c. of the same Mannor with the appurtenances infeoffed the same I W: To have and to hold to the same I W his Heirs and Assignes, for such and Term, &c. unto which Feoffment by the same W S unto the same I W in form aforesaid made, the I me H C afterwards and before the same time, in which, &c. to wit the first day of Nov. An. &c. of the same two Acres of Pasture with the Appurtenances in form aforesaid, being seised at T St E aforesaid, Attorned; By vertue of which Feoffment and Attornment aforesaid, y^e said Feoffee was & yet is of y^e Mannor aforesaid, with the appurtenances seised in his Demesne, as of f^ree. And because iiii s. & iiii d. of the Rent aforesaid for 4 years ended at y^e feast of St. Mich. &c. And after the Attornment aforesaid, in form aforesaid, made unto y^e same Feoffee, at y^e same time, in which, &c. was in arrear unpaid, y^e same B. as Bayliff of the same Feoffee well acknowledges y^e taking of the Cattel aforesaid in y^e same place, in which, &c. for the same iiii s. & iiii d. of the Rent aforesaid being in arrear; And justly, &c. within his f^ree and Demesne, &c.

And the same I C saith, that the said B. as Bayliff of the Feoffee for the reason before alleged the taking of the goods aforesaid, in the same place, in which justly ought not to have, because protesting y^e the same H C held not the same 2 Acres of Pasture with the appurtenances of the same W S, as of his Mannors of R aforesaid, by Fealty and Rent of xiiij d. by every year at the feast of St. Mich. the Archangel to be paid; And by service to make suite to the Court of the Feoffor at his Mannor from three weeks unto three weeks, by reasonable summons to be held at the same Mannor, as the same Abbotant above allegeth; for Plea saith, that the same H, before the same time of the said taking, and at the time of the same taking, was, and yet is seised of the same two Acres of Pasture with the appurtenances in his Demesne, as of f^ree, And held the same of M, &c. As of his Mannor of T St. E. with the appurtenances in T St. E, by Fealty only for such services, without that y^e the same H at T St. E aforesaid, attorned Tenant to the same Feoffee in manner and form, as the said Abbotant before alleged. And this he is ready to verifie, whereupon for that the same Abbotant took the Cattel in the same place, &c. the Defendant prayeth judgment,

Count in Replevin.

The Defendant makes Conscience as Bayliff of I, Lord of the Mannors of D, for arrearages of Rent-service, Tenure in Socage.

Seisin of Services.

A Stranger in feoffed of the Mannor.

Attornment by the Tenant to the Feoffment.

Makes Conscience as Bayliff of the Feoffee for arrearages of Rent-service, after the Attornment as in his Demesne and Fee.

The Plaintiff plead in barr protesting to the Tenure, for Plea saith that he hold of M by fealty only for such services, and traveth the Attornment.

and

H. 2 Jac. rot.
346. Count in
Replevin, up-
on a Rec. re-
moved out of
an inferiour
Court into the
Chancery by
Certiorari,
and sent into
the upper
Bench by mit-
timus. P. 37
Eliz. rot. 838.
Tiel. T. 14
Eliz. rot. 1289
T. 3. Ia rot.
24. o. T. 14.
Eliz. rot. 549.
T. 39 Eliz.
rot. 353.

Judgment
thar it is a
good Attorn-
ment.

Count in Re-
plevin.

The Defend.
avoweth in
his own right
& in the right
of his Wife,
and other Is-
sues in Tail
for Rent re-
served by
Lease by the
Donor, and
afterwards
part of the
Rent is sus-
pended by
the Release
of the Issues
in Tail, to a par-
ticular Rent
for life.
W. seised in
Fee.
Lease to 2 for
their Lives.
Reservation.

Joyntenancy
for life.

Grant of the
Reversion by
Deed.
Uses expres-
sed.

and his Damages, by reason of taking of the same goods, to him to be ad-
judged, &c. And the same Avowant, as before saith, that the same H did At-
toz'n Tenant to the same Feoffee in manner and form as the same Avowant
hath before alleged, and of this, &c. whereupon a Jury. And the Jury say up-
on their Oath that the within named H C before the within written time,
in which, &c. was seised of the within written 2 Acres of Pasture with the
appurtenances, in which, &c. in his Demesne as of fee, by descent from his
father, And that the same H holdeth y same 2 Acres of Pasture with the ap-
purtenances, as in the Avowry aforesaid, And that y Feoffor was seised of
the services, as in the avowry, as by the hands of his true Tenant. And say
further, that the said H. infessed as in the avowry, and that the said H T
was within age of 21 years, &c. at the said Feoffment by the same W S, to
the same I W in form aforesaid made. of the same 2 Acres of Pasture with
the appurtenances in form of St. aforesaid. aforesaid being seised at s agreed
and promised payment of y Rent aforesaid to the said Feoffee. And if upon y
matter aforesaid by y Jury aforesaid in form aforesaid found, the Court, that
y agreement of the said H C to the Feoffment aforesaid, and his said promise
of payment of Rent, the same Tenant being within age of xxi years be an
Attornment, then the Jury say upon their Oath that the said Tenant at-
tozned himself Tenant to the Feoffee in such manner and form as the same
Feoffee hath alleged, Judgment by the Court that the Avowant go there-
of without day quiet, &c. And as it seemed to me, it was accounted a good At-
tornment.

T. 6 Jac. rot. 2731. Waller. G E complaineth of I F, wherefore he the 26 day
of September, Anno 4 Jac. in a certain place there called F Meade took the
Cattel, to wit the Cows, and them unjustly detained, &c.

And the same I by R W his Attorney cometh, &c. And in his own right & in
in the right of his Wife well avoweth: And as Bayliff of M W, and Anne
his Wife, and R G, and Johan his Wife, well acknowledgeth the taking of
the Cattel aforesaid in the same place, in which, &c. and justly, &c. because
he saith that y same place, in which the taking of y Cattel aforesaid is sup-
posed to done, containeth, & the same time in which the taking of the Cattel
aforesaid is supposed to be done, did contain in it self 3 Acres of Pasture
with the appurtenances in P aforesaid, And that long before the same time
in which, &c. one W F was seised of the same 3 Acres of Pasture with
the appurtenances, in which, &c. And also of 1 Mes. 2 Gardens, 2 Acres of
Lands, and one Acre of Pasture with the appurtenances in P aforesaid, in
his Demesne, as of fee. And so being thereof seised, afterwards and before
the same time, in which, &c. to wit the 12 day of October, Anno 6 E. li.
demised the Tenements aforesaid to certain I W the elder, and Johan his
Wife, to have and to hold to the same I and I for Term of their lives, and
the longest liver of them, paying therfore yearly to the same Walcer his
Heirs and Assignes 32 s. 4 d. at 4 the most usual feasts, to wit at the
feast of the birth of our Lord, the Annunciation of the blessed Virgin
Mary, the Nativity of S. John the Bapt. and S. Mich. the Arch. by equal
portions to be paid: By vertue of which Demise the same I and I were of
the whole Tenements aforesaid, with the appurtenances seised in their
Demesne, as of fee Tenement for Term of their lives, and the life of the
longest liver of them, And the same I and I being to thereof seised, and the
same W of the Reversion thereof, as in fee, and right being seised, the
same W afterwards, and before the same time, in which, &c. to wit the 21 day
of December, Anno Reg. 15. at P aforesaid, by his certain Indenture with
his Seal sealed, bearing date the same day and year, granted the same Re-
version of the Tenements aforesaid, with the appurtenances to W H, and
C D, &c. to have, and to hold to the same W H, C M, &c. their Heirs and
af

assignes for ever, to the use of the same W F, for Term of his life. And after the decease of the same W F to the use of I F his son, and Phe. H. daughter of H. H. which the same I F then intended to take to wife, and who afterwards the same I F took to wife, and the Heirs of the body of the same I F to be begotten, unto which said grant of the Reverſion aforesaid, the same I W, and I his wife afterwards, to wit the 3 day of Jan. An. 15 aboveſaid, then of the whole Tenements aforesaid, with the appurtenances for Term of their lives, and the longest liver of them, in form aforesaid being seised, the Reverſion thereof to the same W F and his Heirs belonging, themselves to the said W. H. C. M. &c. at P aforesaid, attuned and agreed: By preſent of which said Grant and Attornment, and Creement aforesaid, And also by vertue of a certain Act for transferring of uses into possession in the Parliament of H. 8. 4 Feb. An. 27 at Westminster, in the County of Middleſex made and provided the same W F, was of the Reverſion aforesaid, as of his free Tenement for Term of his life seised, the Remainder thereof after the death of the same W to the same I F, and Phe. and the Heirs of the body of the same I to be begotten, belonging. And the same W F being so thereof seised, the Remainder thereof after the death of the same W to the same I F and Phe. and the Heirs of the body of the same G to be begotten in form aforesaid belonging, the same W F before the same time, in which, &c. at P aforesaid died of such his Estate therein, of and in the Reverſion aforesaid seised. After whose death the same Reverſion unto the same I F and P, and the Heirs of the body of the same I F to be begotten belonged; And the same I and P. were of the same Reverſion, to wit y same, I as in free tail & Right, to wit to him & the Heirs of his be begotten. And the same Phe. as of free Tenement for Term of her life, according to the form of the gift aforesaid, and the same being so thereof seised; And the same I W and I his wife, of the Tenements aforesaid with y appurtenances in their Demeſne, as of free Tenement in form as aforesaid being seised; the same I afterwards and before the same time, in which, &c. at P aforesaid likewise died; And the same I W survived her, and kept her self within the Tenements aforesaid, with the appurtenances & was thereof solely seised in her Demeſne as of free Tenement for term of her life, by right of Survivorſhip. And so being thereof seised, And the the same I F and P of the of the Reverſion aforesaid, in free aforesaid, being seised the same I afterwards and before the same time in which &c. at P aforesaid likewise died. And the same I F survived her and was thereof solely seised of the Reverſion aforesaid, as in free tail and Right, to wit to him and the Heirs of his body lawfully begotten, by right of Survivorſhip, And afterwards and before the same time, in which, &c. to wit the 11 day of Jan. An. Eliz. 35. the same I at P aforesaid likewise died of such his Estate therein seised, having Issue of his body lawfully begotten the same C. I. A. and one, C. now y wife of the same R. P. After y death of which said I P, the same Reverſion of the Tenements aforesaid, with the appurtenances, descended to the said C. A. I and C. as to y Daughters, and Coheirs of the body of the same I F begotten, by which the same C. A. I and C. were seised of the same Reverſion, as in free and Right, according to the gift aforesaid, to wit to them, and the Heirs of their bodies begotten. And they being so thereof seised the same Charity afterwards and before the same time, in which, &c. to wit the 12 day of Jan. An. Eliz. 40. at P aforesaid, took to Husband the same I Ford whereby the same I F and C. in the Right of the same C, and the same M. W, and A his wife in y right the same A; And y same R. G. & I his wife in the Right of y same I, and the same R. P. and Christian his wife, in the Right of the same Christian were seised of the same Reverſion of the whole Tenements aforesaid with the appurtenances in their Demeſne, as of free and Right, according

Attornment of the Lesſees to the Grantor made to the Feoffees.

By which, and 27 H. 8. uses the Grantor was seised for life the Remainder over in Tail.

Lesſe for life in Reverſion dieth.

Reverſion in Tail.

One of the Lesſees for life in possession dieth, another surviveth, and hold per jus arreſtandi.

The other Reverſioner in Tail, hath Issue 4 Sons Descend of the Reverſion to the Issues in Tail.

Perceivers marry.

One of the parteners and her Husband releaseth to the Tenant for life her estate.

Suspension of the 4 parts of the Rent.

Avowry for the residue of the Rent not suspended, arrear to the Issues in Tail.

Avowment of the lives of the Tenants in Tail.

The Plaintiff pleads in barr to the Avowry confesseth the Estate of the Lessor and Lessees for lives, but further that the Lessor died seised of the Reversion, and afterwards his Heirs disseised the Lessee for life, and made a Feoffment in Fee to the use of a Stranger for life Remainder in Tail to another Stranger the first Lessee Renters upon the Lessee for life by Feoffment claiming his Term and liberty by the Plaintiff to put his Cattel and travesteth that the first Lessor granted his Reversion as in the Avowry. Descent of the Reversion. Reversioner disseises the Lessee for life.

According to the form of the gift aforesaid, to wit to them and the Heirs of the bodies of the same C A and C. coming. And they being so thereof seised and the same I W of 4 Tenements aforesaid with the appurtenances in his Demesne, as of free Tenement form aforesaid being seised, the same Robt. afterwards and before the same time, in which, &c. to wit the 28 day of Jan. An. 40 Eliz. aforesaid, at P aforesaid, by his certain writing of Release, with his Seal sealed, remitted and released (the same I W of the Tenements, aforesaid with the appurtenances in his Demesne, as of free Tenement in form aforesaid then being seised, and to his Heirs the whole Right State, Title and interest, which he then had in the Reversion of the same Tenements, by pretext, whereof the fourth part of the same Rent of 3 s. 4 d. to the same R P, and C, in the right of the same C, late hapning was suspended & now is suspended, And because 9 l. & x i j s. of the residue of the Rent aforesaid by the same I F, C W W A, R G, and I his Wife in the Rights of the same C A and I hapning for 8 years ended at the Feast of the Nativity of St. John the Bapt. Anno Eliz 44. to the same I F C M W A R G and I his Wife at the same time in which, &c. were in arrear, and not paid the same I Ford in his own Right, and in the Right of the same C his Wife well aforesaid. And as Waplift of the same M W A R G, and I his Wife well acknowledge the taking of the Cattel aforesaid in the same place, in which, &c. for the same 9 l. 14 s. of the same residue of the Rent aforesaid in form aforesaid, being in arrear and justly, &c. as in parcel of the Tenements aforesaid above demised, with this that the same I will verifie that the same R C his Wife, and I W as yet aforesaid, and in full life to wit at P aforesaid, &c. And the same G saith, that neither the same I Ford in his own Right, and in the Right of C his Wife by the reason before alleged the taking of the Cattel aforesaid in the same place, in which, &c. justly to avow nor as Waplift of the same M W and A his Wife, and R G, and I his Wife ought; justly to acknowledge the same taking: because he saith that well and true it is that long before the same time of taking, &c. the same F W was seised of the same three Acres of Pasture with the appurtenances, in which, &c. And also of the same Mes. 2 Gardens, 2 Acres of Land, and one Acre of Land with the appurtenances in P aforesaid in his Demesne, as of free. And so thereof being seised the same 13 day of October, Anno Eliz 6. aforesaid, demised the Tenements aforesaid with the appurtenances to the same I W the elder, and Johan his wife to have and to hold the same and I for Term of their lives, and the longer liver of them, paying therefor yearly to the same Walter his Heirs and assignes 32 s. 4 d. at the same 4 most usual feasts to wit of the Birth of our Lord, the Annunciation of the blessed Virgin Mary, the Nativity of St. John the Baptist, and St. Michael the Arch angel, by equal portions to be paid: By vertue of which demise the same I and I were of the Tenements aforesaid, with the appurtenances seised in his Demesne, as of free Tenement for Term of their lives and the longest Liver of them, as the same I Ford hath above alleged. But the same G further saith that the same I W and Johan of the Tenements aforesaid, with the appurtenances in form aforesaid, being seised, that the same W F of the Tenements aforesaid with the appurtenances in form aforesaid being seised; And the same W F of the Reversion thereof, as in free and Right being seised, the same W afterwards and before the same time of the taking, &c. at P aforesaid, died of such his Estate in Reversion, aforesaid seised. After whose death the Reversion aforesaid, descended to the same I F as Son and Heir of the same W, whereby the same I was seised of the Reversion aforesaid, as in free and Right, And the same I so being thereof seised, And the same John and Johan his Wife, of the Tenements aforesaid with the appurtenances in form aforesaid being

being seised, the same I afterwards and before the same time of the taking, &c. at P aforesaid likewise died. And the same I W survived him, and kept herself within in the Tenements aforesaid with the appurtenances, and was thereof sole seised in her Demesne, as of free Tenement for Term of her life, by Right of Survivorship. And the same I W being so thereof seised, and the same I F of the Reversion aforesaid in form aforesaid being seised, the same I F afterwards and before the same time, in which, &c. into the Tenement aforesaid with the appurtenances upon the possession of the same I W thereof unjustly and without judgment disseised, and was at the Tenements aforesaid with the appurtenances in his Demesne, as of free by disseisin, &c. and so thereof by that disseisin being seised afterwards and before the same time of the taking, &c. to wit the 12 day of October, Anno Eliz. 30. of the same Tenements with the appurtenances disseised W H, Gent. T H, Gent. N W, and H B to have and to hold the same W H, T N and H, and their Heirs for ever to the use of one M W Son of the said I W for Term of his life and after the decease of the same M to the use of one I F brother of the same I F, Son and Heir of the body of the same I F, the brother lawfully to be begotten: By virtue of which Feoffment, and by force of a certain Statute for transferring uses in possession, the same M was seised of the Tenements aforesaid, with the appurtenances in his Demesne, as of free Tenement for the Term of her life, the Remainder thereof after the death of the same M, to the same I F the Brother and the Heirs of his body lawfully begotten belonging; And the same M being so thereof seised, the Remainder thereof to the same I F in form aforesaid belonging the same I W afterwards, and before the same time of taking, &c. claiming his Estate of and in the Tenements aforesaid, with the appurtenances in the same Tenements, with the appurtenances upon the possession of the same I F thereof entered. And was, and yet is thereof seised in his Demesne, as of free Tenement for Term of her life, as in her former Estate. And so being thereof seised, the same I W afterwards and before the same time of the taking, &c. to wit the 25 day of September, Anno R. 2. 4 aforesaid at P aforesaid, gave licence to the same G, to put the Cattel aforesaid into the same three Acres of Meadow with the appurtenances, in which, &c. to eat the grass then growing in the same: By virtue of which licence the same G afterwards, to wit the same 25 day of September, Anno 4 aforesaid, put the Cattel aforesaid into the same 3 Acres of Meadow with the appurtenances, in which, &c. to eat the grass then growing in the same, until the same I Ford the same 26 day of September, Anno 4 aforesaid at P aforesaid in the same place called, F M ad took the same Cattel of the same G, and then unjustly detained against statutes & pledges, until &c. As the same G above against him hath complained without this, that the same W F granted the same Reversion of the Tenements aforesaid with the appurtenances, to the same W H C M I M M F T H, and H H, in manner and form as the same I Ford hath above alleged. And this he is ready to verify whereupon, that the same I F the taking of the Cattel aforesaid in the same place, in which, &c. above aboveseth the same G prayeth judgment and his Damages by occasion of the taking, and unjust detaining of the Cattel aforesaid, to him to be adjudged, &c.

Feoffment by the Disseisor. Declaration of uses.

Re-entry of the Disseised claiming the Term for life,

Licence to the Plaintiff to put in his goods.

Traverse the grant of the Reversion by the first Lessor as in the Avowry.

Issue upon the Travers.

And the same I F as before, saith, that the said W F granted the same Reversion of the Tenements aforesaid with the appurtenances to the same W H C M I M M F T H, & H H in manner & form as he hath above alleged. And of this he putted himself upon the Countrey. And the same G likewise, &c. Therefore the Sheriff is commanded that he cause to come here tres criminal. xij. &c. No more is entered.

M 9.

M S. H 8. rot. 559. The Aduocant after apperance, & before the aduocyp Count in Re-made dieth, and the other Defendants pleas after the last continuance, and make Cognizance as Bayliffs of the deceased Aduocant for Rent arrear.

T. 13 Jac. rot. 348. Brownlow Not. ff T W Complaineth of G B of the taking of 2 Heifers, and one Cows of the same I at B in a certain place these called the four moore Close the last of October, Anno 11. And them un-justly detained against suerties and pledges, until, &c.

And the same G by I M his Attorney cometh and defendeth the force and wrong, when, &c. And well avoweth the taking of the Cattel aforesaid in the same place in which, &c. And justly, &c. because he saith that the same place wherein the taking of the Cattel aforesaid is supposed to be done, doth contain. And at the time wherein the taking of the Cattel aforesaid is supposed to be done, did contain in it self 7 Acres of Pasture with the appurtenances in Barresaid, and that long before the same time, in which, &c. one F B Esquier, Father of the same G was seised of the same Close called the Four more Close with the appurtenances, in which, &c. in his Demesne as of Fee. And so being thereof seised the same F the first day of Oct. An. Eliz. 10 demised to G F, Gent. R. S. & I S the same Close of Land called the Further more close with the appurtenances, in which, &c. a longer other thing to have and to hold to the same G for Term of the natural life of the same R, the Remainder thereof after the decease of the same R to the same I S, for and during the Term of the natural life of the same J. paying therefor yearly 20 s. for and during the Term of certain years, which the same I S then had to come of the demise of the same F, of, and in the moety, or half of the same Close called the Further more close, with the appurtenances, in which, &c. And paying therefor yearly to the same F, his Heirs and Assignes after the Term and time of the same I S, ended and expired 24 s. yearly, for, and during the whole Term of the lives of the same G S R, and I S, and the longest liver of them at the Feasts of St. Martin the Bishop in the Moneth of November, and P. h. ecclt. by equal portions yearly to be payd and the same G B further saith that the same Term of the same I, of, and in the moety, or half of the same Close, called the further more close with the appurtenances, ended, and expired the 20 day of May, Anno Reg. 3. By vertue of which Demise the same G S after the end and expiration of the same Term was seised of the same Close, called the further more close with the appurtenances, in which, &c. in his Demesne as of Fee Tenement for Term of his life, the Remainder thereof after the decease of the same G S, to the same R for Term of his life, the remainder thereof after the decease of the same R into the same I for term of his life, & y same G S being so thereof seised, y Remaind. therof as is above limited in form afores. belonging to y same G at B aforesaid, died of such his Estate thereof seised. After whose death the same R, into the same Close called the further more close, with the appurtenances in which, &c. above demised, entred, and was thereof seised in his Demesne, as of Fee Tenement for Term of his life, the Remainder thereof after the decease of the same R, to the same John for Term of his life. The Reversion thereof to the same F and his Heirs belonging. And the same F being to thereof seised, the Remainder thereof in form aforesaid belonging, the same F afterwards, and before the same time, in which, &c. to wit the first day of May, Anno Reg. primo, at B aforesaid died, of such his Estate therein seised. After whose death the Reversion of the same Close called, the further more close with the appurtenances, in which, &c. descended to the same G B, as Son and Heir of the same F, whereby the same G B was and yet is seised of the Reversion of the same Close, called, the further more close with the appurtenances, in which, &c.

The Defen-
dant avoweth
as Son and
Heir over the
Lessor for
Rent arrear
after the
death of his
Father, and
avoweth the
life of the Te-
nant for life.
The Con-
tents.

Leas for 3
lives after the
Determination
of the first
lease.
Several refer-
ences.

The first Leas
determines.
Seisin of the
first Lessee
for life.

The first Les-
see for years
dieth.
And he in the
first Remain-
der for life
enters.

Lessor dieth.

Descent of the
Reversion to
the Son and
Heir.

more close with the appurtenances, in which, &c. as in Fee and Right, And because 24 s. of the Rent aforesaid for one whole year, ended at the Feast of St. Martin the Bishop, in the Month of November, Anno Reg. 10. to the same G B, after the death of the same F, at the same time in which, &c. were in arrear, and yet are unpaid the same G B. for the same 24 s. of the same Rent so being in arrear well avoweth the taking of the Cattel aforesaid in the same place, in which, &c. And justly, &c. with this that the same G B will verifie that the same R S and I S are yet surviving and in their full life to wit at B aforesaid, &c. whereupon the same T B, being solemnly called, came not, nor hath further prosecuted his Writ aforesaid. Therefore it is considered that the same T and his pledges to prosecute be in mercy, &c. Let the Names of the Pledges be inquired of &c. And that the same G B go thereof without day, &c. And that he have return of the Cattel aforesaid, And inasmuch, &c. the Sheriff make to appear here in Cro. Therefore it is commanded the Sheriff that by the Oath of honest and lawful men of his County, he diligently inquires what Damages the same G B hath sustained by occasion of the premises, as for his costs and charges by him about his lute in this behalf expended. And the Inquisition, which, &c. he make to appear here at the same Term, under Seal, &c. And Seals, &c.

T. 13. Jac. rot. 348; Brownlow. Cornub. ff. R G. Cent. was attached by Writ of the said Lord the King of second deliverance, to answer W B of a Plea, wherefore he took the Cattel of the same W, and them unjustly detained, &c. against Pledges and Sureties, &c. And whereupon the same W by I F his Attorney complaineth that the same R the 25 day of October, Anno 12 Jac. at A, in a certain place there called O T, took two Cows, &c.

And the same R by I H his Attorney cometh, &c. and well avoweth the taking of the same Cattel in the same place, in which, &c. and justly, &c. because saith that the same place, in which, &c. did contain in it 50 Acres of Pasture with the appurtenances in A aforesaid, And that long before the same time, in which, &c. one W S was seised of the same 50 Acres of Pasture with the appurtenances, in which, &c. in his Demesne, as of Fee, And being so thereof seised the same W S, afterwards and before the same time, in which, &c. to wit the 20 day of May, Anno Eliz. xi. at A aforesaid, demised to one I S, Cent. the same 50 Acres of Pasture with the appurtenances, in which, &c. to have & to occupy to the same I S and his Assignes from the Feast of St. Mich. & Archangel then next following until the end and Term of 6 years then next following, and fully to be compleat and ended yielding therefore yearly to the same W S and his Assignes, etc. xs of lawful money of England at the Feasts of St. John the Baptist, the Annunciation, &c. the birth of our Lord, and St. Mich, the Archangel yearly to be paid By vertue of which Demise the same I S in the mozt, &c. next after y Feast of St. Mich & Arch ang. next after y same 20 day March, Anno 11 above said into the same 50 Acres of Pasture with the appurtenances in which, &c. entred and was thereof possessed, the Robertson thereof after the same Term ended to the same W S his Heirs and Assignes in their Demesne, as in Fee and right in form aforesaid belonging. And the same I S of the same 50 Acres of Pasture with the Appurtenances, in which, &c. being possessed. And the same W S of the Reversion of the same 50 Acres of Pasture, with the appurtenances, in which, in his demesne, as of Fee and Right being seised, the same I S afterwards and before the same time in which &c. to wit, the first day of May Anno Eliz. 440 at A aforesaid, granted to the same W B the elder, and his Assignes, the whole Right, Estate, Title, Interest, and Term of Years, which he then had to come, of and in the same 50 Acres of Pa-

Descent of the Reversion to the Son and Heir. The Heirs avowes for Rent arrear for one year after the death of his Father. Averment of such in Remainder for that they are shive. Not sinit after Avowry. Return herein awarded. A Writ to inquire of Damages awarded by the Avowiant.

Count in Replevin upon a Writ of second deliverance.

Avowry made upon deed by the bargain of the Reversion after descent from him for Rent arrear upon a Leas for years.

He who seised in Fee makes a Leas for years at a day to come per Reservation.

Entry of the Lessee.

Lessee for
years grants
his estate.
Entry of the
grantee.

Grantee of the
tenure makes
his Will and
dyeth

Executor en-
ters into the
premises de-
mised.
Lessor dyed.
Descent of the
reversion to his
Son and Heir

Reversioner.
bargained and
vendeddy
deed inrolled
grant the Re-
version to the
Avowant.

Inrolment in
the County
where the
Lands ly be-
fore the Just-
ices of Peace.
Avowry for
rent arrear
upon lease for
years after the
grant of the
reversion by
bargain and
fail.

The Plaintiff is
non-suited.
Return had
and a writ to
inquire of da-
mages a-
warded.

sure with the appurtenances in which &c. By vertue of which grant, the same W B afterwards and before the same time in which &c. into the same 50 Acres of Land with the appurtenances entred and was thereof possessed. And being so thereof possessed, And the same W S of the Reversion of the same 50 Acres of Pasture with the appurtenances in which &c. in his Demeasne as of fee being seised, the same W B afterwards and before the same time, in which &c. to wit, the first day of August Anno Eliz. R^e. aforesaid, at A aforesaid, made his last Will and Testament in writing. And him the same W B the Son his Executor of the same Testament made and ordained. And afterwards at A aforesaid, died of the same 50 Acres of Pasture with the appurtenances in which &c. possessed. After whose death the same W B afterwards and before the same time in which &c. took upon him the burthen of the Execution of same Testament, and into the same 50 Acres of Pasture with the Appurtenances in which &c. entred and was, and yet is by vertue of the Testament aforesaid thereof possessed, the Reversion thereof to the same W S in form aforesaid belonging. And the same W B being so thereof seised, and the same W S of the Reversion of the same 50 Acres of Pasture with the appurtenances in which &c. in form aforesaid being seised, the same W S afterwards and before the same time in which &c. to wit, at A aforesaid died, of such his Estate thereof seised, after whose death the Reversion of the same 50 Acres of Pasture with the appurtenances in which &c. descended to one T S as Son and Heir of the same W S whereby the same T S was seised of the Reversion of the same 50 Acres of Pasture with the appurtenances in which &c. in his Demeasne as of fee. And the same T S being so thereof seised. And the same W B of the same 50 Acres of Pasture, with the appurtenances in form aforesaid being possessed, the same T S afterwards and before the same time in which &c. to wit, the first day of March Anno R^e. 10. at A aforesaid, by his certain Indenture between the same T S by the name of T S of &c. of the one p. rt, and the same R G by the name of R G of &c. of the other part made. And afterwards, to wit, the second day of June Anno xj^o. at A aforesaid, before R C Esq. then one of the Justices of the said Lord the King of the Peace, assigned in the County aforesaid, and E D Gent. then Clerk of the Peace of the said Lord the King in the County aforesaid, as the deed of the same T S acknowledged. And amongst the Records of the same County, before the Justices of the same Lord the King, to keep the Peace in the same C. remaining, according to the form of the Statute of Inrolment of Deeds, in such case made and provided, in due manner upon Record inrolled, which other part with the Seal of the same T S sealed, the same R G here in Court bringeth, bargained and sold to the same R G the same Reversion of the same 50 Acres of pasture with the appurtenances in which &c. to have and to hold to the same R his Heirs and Assignes for ever. By pretext of which said Bargain, Sell, and Inrolment, the same R G was and yet is seised thereof the Reversion of the same 50 Acres of Pasture, with the appurtenances in which &c. in his Demeasne as of fee and Right. And because 10 s. of the said Rent, for one whole Year, ended at the Feast of the birth of our Lord Anno R^e. 120. to the same R G the same time in which &c. were in arrear, and yet are unpaid, the same R well avoweth the taking of the Cattel aforesaid in the same place in which &c. And justly &c. for the same rent so being in arrear. Whereupon the same W B being solemnly called, came not, nor hath farther prosecuted his said Will. Therefore it is considered that the same W and his pledges to prosecute, be thereof in mercy &c. Let the names of the pledges be inquired of &c. And that the same R G go thereof without day &c. And have return of his Cattel aforesaid, to hold to him irretrievable for ever. And in as much, &c. & wherof said

make to appear Cjo. Anar, &c. And a Writ of inquiry awarded as in the precedent next before.

T. 13. Ja. Rot. 3662. Brownlow Ebor. ff. T R complainth of R P for the Count. in Retaking, and unjust deteyning of Two Sheep in a certain place there called plevin. the Mannor Ward, &c.

And the same R by I W his Attorney cometh &c. And as Bayliff of H Earl of No. well acknowledgeth the taking of the Cattel aforesaid, in the same place in which &c. And justly &c. because he saith that the same place in which the taking of the Cattel aforesaid is, is above supposed to be don both contain, & the same time in which the taking of the Cattel aforesaid was supposed to be don, did contain in it self half of one Acre, of Pasture with the appurtenances in T aforesaid. And that long before the same time in which &c. the Lord Philip and Lady Mary late King and Queen of England, were seised of the Mannor of S with the appurtenances in T B D and B with the appurtenances in the County aforesaid, wherof the same place in which &c. is and at the same time in which &c. And also from the time wherof the memory of Man is not to the contrary, was parcel in his Demesne as of Fee. And the Mannor aforesaid with the appurtenances held of the same late King and late Queen, in the right of the said late Queen as of the same Mannor of S by Homage, Fealty, and Censuage of the said Lord the King, and Lady the Queen in the right of the said Lady the Queen of 40 s. when it happeneth. And to more more, &c. or less &c. And by y service to make suit to y Court of the said Lord y King & Queen of their Mannor of S aforesaid, from Thre Weekes to Thre Weekes, at the same Mannor to be held, of which said services, the same late King and Queen were seised by the hands of the said I Lord S as by the hands of the true Tenant, to wit, of the Homage, Fealty, and suit of Court aforesaid, as in Fee and Right, and of the Censuage aforesaid in his Demesne as of Fee. And so being thereof seised, the same late King and Queen P and M before the same time in which &c. to wit, the 16 day of August, Anno Regnor. 40 and 50 at R in the County of S by their Letters Patents, which the same R P under the great Seal of the same King and Queen of England sealed, her in Court bringeth, whose date is at R aforesaid, the same day and year gave and granted to T then Earl of N amongst other things, the same Mannor of S with the appurtenances, together with the Knights fees, and Adonsons to the same Mannor belonging or appertaining to have and to hold to the same T then Earl of N and the Heirs Males of his body lawfully begotten, the remainder thereof for default of such issue to H P Brother of the same then Earl, and the Heirs of the body of the same H begotten. By vertus of which said Letters Patents, the same T late Earl of N. before the same time in which &c. in the same Mannor of S with the appurtenances entred, and was thereof seised in his Demesne as of Fee tail, to wit, to him and the Heirs Males of his body begotten, the remainder thereof for default of such issue to the same H P and the Heirs Males of his body begotten. And the same T late Earl, so being thereof seised, the remainder thereof as before said, belonging, the same late Earl afterwards and before the same time in which &c. at S aforesaid died, without Heir of his body begotten. After whose death the same H P the Brother of the same late Earl, into the same Mannor of S aforesaid, with the appurtenances as in his remainder aforesaid therein entred, and was thereof seised in his Demesne as of Fee tail, to wit, to him and the Heirs Males of his body begotten. And so being thereof seised, the same H afterwards and before the same time in which &c. at S aforesaid died of such his Estate therein seised, after whose death the Mannor aforesaid, with the appurtenances, descended to the same H now Earl of N as Son and Heir, Male of the body of the same H Brother

The Defendant maketh Connissance as Bayliff of the Lord of the Mannor of P for reliefs Homage fealty, severall suits of Court, and for marriage of his Daughterduby the same Lord and arrear, &c averr that the Daughter is within 12. years, and living at S aforesaid. Tenure. Seisin of services.

Declaration of the Seisin of services.

Grant of the Mannor in tail special remainder over in special tayl.

Entry of the gaunte into the mannor. Tenant in tail dyeth without issue. Entry of him in remainder. He in remainder in tail dyeth. The estate tail descended to his issue male, who enters.

Tenant of the
other Mannor
dyeth.

Diversdescents
of the Mannor.

Makes Conni-
fance for relief
arrear after
the death of
the tenant.

Aid, Arrear, to
marry his
Daughter.
T. 23 Eliz. rot.
1527. avowry
for Homage,
Arrear, after
personal de-
mand to make
suit &c. and
refused.
Another re-
lief in arrear
after the death
of the other
tenant.
Homage and
fealty arrear.
P. 30. H. 6. rot.
397. justifica-
tion by the
Duke of Y.
for 40 s. in aid
of the marri-
age of his
first born
Daughter be-
married to the
Duke of E. if
sue non tenet.
Aidment that
the daughter
was within
the age of 12
years and li-
ving.

Brother of the same T late Earl coming by form of the gift aforesaid, whereby the same H now Earl of N. before the same time in which &c. into the same manor of S with the appurtenances entred, and was and yet is thereof seised in his Demesne as of fee tail, to wit to him & the Heirs Males of his body begotten. And the same now Earl, being so thereof seised. And the same I Lord S of the same Mannor of S T with the appurtenances, whereof &c. in his Demesne as of fee in form aforesaid being seised, the same I Lord S before the same time in which &c. at T aforesaid, died of such his Estate thereof seised, after whose death the same Mannor with the appurtenances, descended to H then Lord S as Son and Heir of I late Lord S, wherereby the same H, Lord S, after the death of the same H P father of the same T late Earl of N. before the same time in which &c. at T aforesaid, died of such his Estate thereof seised. After whose death the Mannor aforesaid with the appurtenances whereof &c. descended to T Lord S as Son and Heir of the said H, Lord S, whereby the same T, Lord S, before the same time in which &c. into the same Mannor of T with the appurtenances whereof &c. entred and was thereof seised in his Demesne as of fee. And being so thereof seised before the same time in which &c. at T aforesaid, died of such his Estate therein seised. After whose death the same Mannor of T with the appurtenances whereof &c. descended to one E Lord S as Son and Heir of the same T late Lord S. And because 5 l. for relief, after the death of the same H, Lord S, the father of the same T, Lord S. And 5 l. for relief after the death of the same T, Lord S, father of the same E, Lord S, to the same H now Earl of N. the same time in which &c. were, and yet are in arrear and unpaid. And the homage and fealty of the same E, Lord S, the same time in which &c. to the same H now Earl of N. the same time in which &c. were and yet are undone. And because the suit of the same E unto the Court of the same H now Earl of N. to his Mannor of S aforesaid, held within the same Mannor the 14. day of April Anno R. 80. And at the Court of the Lord H late Earl of N. at his Mannor of S aforesaid, held within the same Mannor the first day of October, Anno vii j. abovesaid. And at the Court &c. held &c. And at the Court &c. held &c. Anno i x0. And at the Court &c. held &c. Anno x0. And at the Court held the 8 day of April Anno x10. to the same H now Earl of N. by the same E Lord S were undone. And because 20 s. for the same Mannors of T with the appurtenances to the same H, now Earl of N, for the reasonable marriage of D his first born Daughter, due the same time in which &c. were, and yet are, in arrear unpaid, the same R P as Bayliff of the same H now Earl of N. well acknowledgeth the taking of the Cattel aforesaid, in the same place in which &c. and justly &c. for the same 5 l. for relief aforesaid, after the death of the same H father of the same T, Lord S, as aforesaid due. And for other 5 l. for relief aforesaid, after the death of the same T, Lord S, as aforesaid due. And for homage and fealty of the same T, Lord S, to the same Earl as aforesaid undone. And for the said febral Writs, unto the said febral Courts of the same Mannor of S aforesaid also aforesaid. And upon the same Earl of N. due as to the Lands of him the now Earl in form aforesaid held. And within his Fee and Demesne with this that the same R P will verifie that the same D the same time in which &c. and long before, was of the age of twelve years and more. And yet is in full life, to wit at S aforesaid. &c. quer. non ps. judgement for the same R P to return irrepleycal. And a Writ to inquire of damages awarded, &c. Hi. 5 H. 8. rot. 341. Avowry for homage by deed. And in closure of the Lords Parls without deed.

T. 19. Eliz. rot. 904 H. 8. fford, Suffex, Baet. H. Avowry for Homage, Fealty, and Rent, Arrear, and to take distress &c. And took one Cow of &c. for Homage and Fealty in Fee. And two Cows of &c. for Rent &c. as of his Demesne.

TR. 13. Ja. Ror. 2618; Brownlow, Warr. ff. W. H. complaineth against R.B. and J.B. for taking of four sheep in a place called W. in G. &c.

And the same R. and I. by T. S. their Attorney, come and defend the force and wrong when &c. And as Bayliff of the same W. I. I. W. and A. B. Widow, well acknowledge the taking of the cattle aforesaid in the same place, in which &c. and justly &c. Because they say that the same place, wherein the taking of the cattle aforesaid is supposed to be done, both contain, and at the time of the taking of the cattle aforesaid supposed to be done, did contain in it self two acres of Land, with the appurtenances, in G. aforesaid. And that long before the same time, in which &c. one W. Gent. was seised of the moiety of the same two acres of Land, with the appurtenances in which &c. amongst other things in his Demesne as of Fee. And so being thereof seised, the same W. B. afterwards, and before the same time, in which &c. to wit the 24. day of Jan. An. Regis 2. at G. aforesaid, demised to the same W. I. and I. the same moiety of the said two acres of Land, with the appur. in which &c. amongst other things, To have and to hold to the same W. and I. their Executors and Assigns, unto the end and term of 99. years, from thence next following, and fully to be compleat and ended. By vertue of which Demise, the same W. I. and I. W. afterwards and before the same time, in which &c. into the same moiety of the said two acres of Land with the appur. in which &c. entered and were, and yet are thereof possessed. And the same R. and I. B. further say, That the other moiety of the same two Acres of Land, with the appur. in which &c. is &c. at the same time, in which &c. was the Soyl and free Tenement of the same A. B. Widow: And because the same Cattle, the same time, in which &c. were in the same two acres of land, with the appur. in which &c. eating the grasse then growing in the same, and doing damage there, the same R. and I. B. as Bayliffs of the same W. I. and I. W. and A. B. well acknowledge the taking of the Cattle aforesaid, in the same place, in which &c. And justly &c. Damage Fesant, &c.

Count in Replevin.

The Defcandant makes Conusans, as Bayliff of two lessees, for years of the moiety of the place in *quorum*, and of the Tenant of the Free-hold of the moiety *Damage-Fesant*.

Lease for Years of the one moiety.

The other moiety is the Free-hold of A. B.

Makes Conusans Damage Fesant.

P22. Eliz. Ror. 953. And because the cattle aforesaid, the same time, in which &c. were in the same place, in which is the grasse then there growing, and the moles of the trees then there being feeding, and doing Damage there, the same Defendant well avoweth the taking &c. And Plaintiff prescribes to have Common of Pasture, whereby he put &c. And the same title were in the same place, in which is the grasse then there growing. And also the moles aforesaid upon the same grasse then there falling, and being feeding using his Common of Pasture aforesaid, until is. between Welden, and Hamond.

Damage Fesant in Masse.

Prescription for Common of Pasture.

M13. Ja. Ror. 2640. Brownlow, Lincoln ff. Replevin between Gilton Plaintiff and I. I. and R. W. Avowants of one Oxe taken the 20. Jan. An. 12. at W. All-Sonls in a certain place called T. K. Close, &c.

Defendants say, that the same I. and R. by Authority of a Commission of the said Lord the King now, De le Essewer, within the same County of Lincoln, for a certain

Count in Replevin.

Avowes the taking of the goods to levy a sum of money taxed by the Plaintiff by the Commissioners of Sewers.

sum of money, by the same W. due. And by the Commissioners of the Peace the King of the Shire, within the same County of Lincoln, duly and lawfully by Authority of the same Commission, upon the same W. before that time imposed according to the tenour and effect of a certain Statute in the Parliament of H. 8. at Westm. in the County of Midd. Anno 23. held, late made and provided the same Ore at W. aforesaid, in the same place, in which &c. at the same time in which &c. found, took, and impounded: as to them by virtue of the Statute aforesaid, and authority of the Commission aforesaid, was very lawful: and this they are ready to verify. Whereupon they pray Judgment and return &c.

Bar of his own wrong without such cause.

Ought not to abate, because they say that the same L. and R. the Day and Year aforesaid, in the Declaration aforesaid above specified, of their own wrong, without the cause by the same J. and K. above alleged, the same 20. day of Jan. Anno 12. aforesaid, at W. aforesaid in the same place, called T. took the same Ore of the said W. and him unjustly detained against Sureties and Pledges, until &c. as the same Plaintiff above against them complained: and this they pray &c. The Jury find for the Plaintiff; and damages for taking of the same Ore: And the Defendant in mercy &c.

Count in Replevin.

T¹⁴. J. Rot. 2073. s. Brownlow, Leic. sh. W. S. complaineth of R. W. and M. his Wife, and J. B. and A. his Wife, for taking of 8. Oxen, 22. Novemb. An. 13. Jac. in a certain place there called the Old-hay, &c.

Makes Conusans for taking the goods for doing damage in the Freehold of an Estranger.

And the same R. and M. I. and A. by G. W. their Attorney, come and defend &c. and as Bailiffs of H. S. Esq; well acknowledge the taking of the cattle aforesaid, in the same place, in which &c. and justly &c. Because they say, that the same place in which the taking of the Cattle aforesaid is supposed to be done doth contain. And the same time &c. did contain in it self 100. Acres of Pasture, with the Appurtenances in R. aforesaid, which said one hundred Acres of Pasture, with the appurtenances are, and the same time, in which &c. were the Soil and free Tenement of the same R. S. And because the cattle aforesaid the same time, in which &c. were in the same place, in which &c. eating the grass then there growing, and doing damage there the same R. and M. I. and A. as Bailiffs of the same H. S. well acknowledge the taking of the cattle aforesaid, in the same place, in which &c. and justly &c. damage there so doing &c. cannot justly abate, because he saith that the same place called O. doth contain, and the same time of the taking of the cattle aforesaid done did contain in it self divers several Closes of Pasture & Wood in R. aforesaid; and that the same W. S. is, and the same time of the taking &c. was seised of one P.uage, and two Rods of Land, Meadow, and Pasture, with the Appurtenances in B. in the County aforesaid, in his Demesne, as of Fee: And the same W. and all these whole Estate the same W. now hath, and at the same time of the taking &c. had in the same P.ell, and two Rods of Land, Meadow, and Pasture, with the appurtenances, from the time whereof the memory of man is not to the contrary, have and ought to have the Common of Mastling, in the same 100. acres of Pasture and Wood, in which &c. for all Swine ringed, upon the same P.ell, and two Rods of Land, Meadow, and Pasture, levant and couchant in manner and form following, To wit. every year from the time in which the same P. R. in the same 100. Acres of Pasture and Wood shall first fall, for and during the whole time of the same P. King in the same 100. Acres of Pasture and Wood, taking as to the same P.uage, and two Acres, and two Rods of Land Meadow and Pasture, with the Appurtenances belonging.

For Bar to the Avowry, the Plaintiff prescribes to have Pannage for his Swine, especially being ringed every year at the time of the Pannage.

Prescription for Common of Pannage.

And the same W. S. so of the same Tenements, with the Appurtenances, in for an aforesaid being seized; the same W. before the same time of the taking &c. being the time of Pasturing, put the same eight Swine, being ringed, which were the own Swine of the same W. and levant and couchant upon the Tenements aforesaid with the appurtenances, into the same 100 Acres of Pasture and Wood, with the appurtenances, in which using there his Common aforesaid: and the same Swine were in the same 100. Acres of Pasture and Wood, with the Appurtenances, in which &c. eating the Pasture in the same then being until the same R. and M. I. and A. the 17. day of Novem. Anno Regis 13. abovesaid at R. aforesaid in the same place called the O. being in the time of the Pasturing, took the same eight Swine of the same W. so as aforesaid being ringed; and them unjustly detained against Sureties and Pledges &c. until &c. as the same W. hath above against them complained; and this he is ready to verifie: Whereupon for that the same R. and M. I. and A. the taking of the eight Swine aforesaid in the same place, in which &c. above acknowledge the same W. prayeth Judgment, and his Damages, by occasion of the taking and unjust detaining of the same cattle to him to be adjudged, &c.

Putting in his cattle. Using of Common.

And the same R. and M. I. and A. as before say, that the same 100. Acres of Pasture, with the Appurtenances are, and the same time in which &c. near the Soyl, and free Tenement of the same W. S. as the same R. and M. I. and A. have above alleaded, without that, that the same W. S. and all those whose Estate the same W. now hath, and the same time of the taking &c. had in the same Messuage, and two Roods of Land, Meadow, and Pasture, with the Appurtenances, from the time whereof the memory of man is not to the contrary had, and were accustomed to have Common of Mastling, in the same 100. acres of Pasture and Wood, with the Appurtenances, in which for all his ringed Swine, upon the same Mess. and two Roods of Land, Meadow, and Pasture, with the appurtenances belonging; as the same W. S. hath above alleaded; and this they are ready to verifie: Whereupon, as before, he prayeth Judgment, and the return of the Cattle aforesaid; together with the Damages to them to be adjudged, &c.

Replication by the Defendant, that the Free-hold is an Estrangers, and traverseth the Common of Pawnsage.

And the same W. as before saith, That he and all those whose Estate the same W. now hath, and at the same time of the taking &c. had in the same Messuage, and two Roods of Land, Meadow, and Pasture, with the appurtenances, from the time whereof, the memory of man is not to the contrary, have, and were accustomed to have Common of Mastling in the same 100. acres of Pasture and Wood, with the appurtenances, in which &c. for all his ringed Swine upon the same Messuage, and two Roods of Land, Meadow, and Pasture, levant and couchant, in manner and form following; to wit, every year from the time of the Mastling aforesaid, in the same 100. Acres of Pasture and Wood shall first fall and for producing the whole time of Mastling aforesaid in the same 100. Acres of Pasture and Wood, as to the same Mess. and two Roods of Land, Meadow, and Pasture, with the Appurtenances belonging; as the same W. hath above alleaded. And this he prayeth may be inquired of by the Countrey; and the same R. and M. I. and A. likewise. Therefore the Sheriff is commanded, that he cause to come here Tres. Trin. xij. of the Neighborhood of R. and B. by whom &c. and who neither &c. to recognize &c. because as well &c.

Issue upon the Traverse of the prescription of Common of Pawnsage.

The Plaintiff
confesseth the
Avowry in Re-
plevin.

T 14. Ja. Rot. 734. s. Brownlow, ff. Essex ff. W.N. complaineth of J.C. f. 2 taking of twelve Stars the 18. of April, An. 14. Jac. at T. B. in a certain place called S. Croft, the Defendant as Waplift of C.M. and R. his Wife, maketh Conusans for 76 l. parcel of a Rent charge of 100 l. by a Grant made to the Husband and Wife for their lives, by R. W. Wt. out of his Mannor of T. B. in arrear, at the Feast of St. Mich. the Archangel, An. 12. abovesaid in the place &c. as in Lands tied to their distresse, with the avowment, that the Grantee is in full age, &c. And the same W.N. saith, that he cannot gainsay the Conusans of the same Ja. nor but that the same R. W. was seised of the Mannor aforesaid, with the appurtenances, whereof &c. amongst other things in his Demeasne, as of fee. And being so therof seised by his Indenture granted to the same G. and B. the same annual rent of 150 l. issuing out of the Mannor aforesaid, with the appurtenances, whereof &c. amongst other things, to be paid at the said Feasts &c. to hold to the same G. and B. and their Assigns, for and during the natural lives of the same G. and B. and the life of the longest liver of them, with the same clauses of Distresse as aforesaid; nor but that the same R. W. by his Indenture aforesaid, granted to the same C. & B. s. same Sum of 6 s. nomine pona, for default of payment of the same annual rent, in forin aforesaid granted, with the same clauses of Distresse for the same: nor but that the same G. and B. by virtue of the same Grant, were seised of the same annual rent in their Demeasne as of fee Tenement for term of their lives, and the life of the longest liver of them: nor but that the same 76 l. of the Rent aforesaid, for one half yeares Rent ended, at the Feast of St. Michael the Archangel, An. 12. abovesaid, to the same G. and B. were in arrear unpaid in forin as the same Ja. by his Conusans aforesaid hath above supposed. Therefore it is considered, that the same R. W. take nothing by his Writ aforesaid, but be in mercy for his false Claim; and the same Ja. go thereof without day &c. and have therein return of his Cattle aforesaid, to hold to him irreplevisable for ever. And hereupon the same Ja. freely here in Court acknowledgeth,

Judgment that the Plaintiff
Nil capiat per bre.

Retorn. irrepleg. awarded.

The Avowant refuseth to
prosecute the *Retorn. Hend.*
and the Writ to inquire of
Damages.

that he will not further prosecute against the same W. as to have the return of the Cattle aforesaid: but further therein to prosecute, doth altogether disavow and refuse: and also freely here in Court remitted to the said W. whatsoever damages to him, by occasion of the premises, to be adjudged. Therefore the same W. as well of the same Writ of Retorn. Hend. as of those Damages, be quiet &c.

In Rep'evin the Defendant traverseth the place; the Jurors find that some Cattle were taken in the place, in the Declaration, and assesse Damages for the Plaintiff: and others taken in the place, in the Bar; and a Retorn. Hend. for them, and a Writ to inquire of Damages awarded.

P 37. Eliz. Rot. 2286. ff. B. against Earon and others in Replevin, for taking of 140. sheep of G. in S. The Defendant traverseth the place, and issues thereupon. The Jury found that the Defendant took 40. sheep of G. in S. prout &c. and assesse Damages for the Plaintiff: and further that the Defendant took 100. sheep of G. in A. prout &c. Therefore it is considered, that the same Plaintiff recover against the same Defendant his damages, by occasion of the taking and unjust detaining of the same 40. sheep &c. in the same place, called S. to 3 s. 4 d. by the Jury &c. and also &c. of increase; and the same Defendant in mercy &c. It is also considered, that the same Plaintiff, as to the same 100. sheep

of &c. in the same place called *nil capiat per bre.* but be thereof in mercy, for his false Claim; and that he have return, &c. and a Writ to inquire of damages awarded.

H 34. Eliz. Rot. 1502. For one Dre cepit, for another Dre non cepit, The like.
by the Jury, and costs and charges for the Plaintiff, and likewise for
the Defendant, and Return. Hend.

T 20. Eliz. Rot. 452. fl. C. against L. in Rep'evin; the Defendants make
Conusans as Bayliffs of R. S. Esq; because they say that the same R.
was seised of the Mannor of H. with the Appurt. in the County aforesaid;
whereof 1000. Acres of Waste ground, with the appurt. in L. aforesaid, are,
and at the same time in which ic and also from the time whereof the memo-
ry of man is not to the contrary, were parcel in fee; and that the same place
in which ec. is, and from the whole time abovesaid were parcel of the same
1000. Acres of Waste Lands with the Appurten. And the same R. so being
thereof seised, the same R. before the same time, in which ec. to wit, such a
day and year, into the same place, in which ec. from the residue of the same
1000. Acres of Waste Land, with the appurt. inclosed with hedges; and him-
self of the same place in which ec. app'ee by form of the Statute in the Par.
of H. late 21. of England the 3d. At M. in the County of Surr. An. Regni sui 20.
held, made, and according to the form of that Statute, left to all the Tenants
of the same R. of his Mannor aforesaid, with the appurt. and to the Commo-
ners in the same 1000. Acres of waste ground, sufficient Common of Pa-
sture unto his Tenements aforesaid, in the residue of the said 1000. Acres of
waste Land with the appur. in the same place, in which ec. with free ingres
and regres, to use his Common of Pasture there: And because the same Cal-
ding the same time in which ic. was in the same place in which ec. after the
approving of the same grass there growing, feeding, ec. and doing damage,
ec.

The Defen-
dants make
Conusans, as
Bayliffs of the
Lord of the
Mannor of D.
Damage Fe-
sant.

The Plaintiff saith, that the Defendant no Conusans, ec. because he pro-
testeth that the same R. the same place, in which ec. from the said residue of
1000. Acres of waste Land, with the appur. inclosed, not with hedges prout,
ec. for Plea, saith that he was seised of one Mess. ec. And prescribes for Com-
mon in the same place, Abq; hoc, that the same R. according to the form of
the Statute left to all the Tenants of the same R. of his Mannor aforesaid,
with the Appurtenances and Commoners in the same 1000. Acres of waste
ground sufficient Common of Pasture unto their Tenements, in the residue
of the said 1000. Acres of waste Land, with the appur. besides the same place
in which ic. with free ingres and regres, to use the same Common of Pa-
sture, prout &c. and Issue thereupon; and Judgment for the Plaintiff.

T 2. Ja. Rot. 735. Costs given to the Defendant in Replevin, where the Costs.
Issue was for the property and found for the Defendant.

H 8. Ja. Rot. 510. Warr. fl. H. P. and G. M. Gent. were attached to an- Count in Re-
swer E. P. Widow, of a Plea; wherefore they took the Cattle of the plevin.
same E. and them unjustly detained against Sureties and Pledges, ec.
And whereupon the same E. by E. R. her Attorney, complaineth that the
same H. and G. the 12. day of June. Anno 8. at C. in a certain place there cal-
led B. took the Cattle to wit, 180. Sheep of the same E. and them unjustly de-
tained against Sureties and Pledges, until such a day, wherein they were
delivered by A. C. Bayliff of the Lord the King ec. sworn and acknowl-
ged, or by the Sheriff of the County aforesaid ec. Whereupon she saith that
she is the worse, and hath damage, to the value of 40 l. And thereof bring-
eth Suit ec.

Avowry for the Arrearages of Rent, charge limited upon an Use raised, upon a common Recovery out of part of the Land contained in the said Recovery.

The Contents.

Common Recovery, *de ingressu in le post.*

And the same H. P. and G. by T. H. their Attorney, come and defend the force and wrong when ac. and the same H. well avoweth: and the same G. as B. piff of the same H. well acknowledgeth the taking of the Cattle aforesaid, in the same place in which ac. and justly ac. Because he saith, That the same place in which the taking of the Cattle aforesaid is supposed to be done, doth contain: And the same time wherein the taking of those Cattle was supposed to be done, did contain in it self two hundred Acres of Pasture, with the Appurtenances in C. aforesaid: And that long before the same time, in which &c. one H. P. Esquire. Father of the same H. was seised in the same two hundred Acres of Pasture, with the Appurtenances, in which &c. amongst other things, in his Demeasne as of Fee.

And the same H. being so thereof seised, E. A. and W. F. by the names of E. A. Esquire, and W. F. Esquire, before the same time, in which &c. to wit, the 27. day of April, Anno Eliz. Regina 24. prosecuted out of the Court of Chancery of the said Lady the Queen, the same Chancery at Westminster, in the same County of Midd. then being, a certain Writ of the said Lady the Queen, *De ingres. super disseiam in le post.* against the same H. P. Esq; and A. his Wife, of the Mannor of C. with the Appurtenances, whereof &c. amongst other things, the same H. the Father, then being Tenant of the Free Tenement of the Mannor aforesaid, with the Appurtenances, by the names of the Mannor of C. with the Appurtenances, and of fixe Messuages, eleven Tofts, Three Hundred Acres of Wood, Three Hundred Acres of Furze and Heath, and Fourty shillings Rent, with the Appurtenances, in C. then directed to the Sheriff of the County of W.

By which said Writ, it was commanded to the then Sheriff, that the same Sheriff should command to the same H. P. and A. that justly and without delay they render to the same E. A. and W. F. the Pannet, Tene-ments and Rent aforesaid, with the Appurtenances, which the same E. A. and W. F. then claimed, as their Right and Inheritance, and into which the same H. and A. then had no entrance; unlesse after Disseisin, which Hugh Hunt thereof unjustly and without Judgment did to the same E. A. and W. F. within thirty years then last past, as they then said; and unlesse they had made. And the same E. A. and W. F. had made y same then Sheriff secure to prosecute their Suit: Then the same Sheriff summon by good Summons the same H. and A. that they be before the Justices of the same Lady the Queen of Common-Bench here, to wit, at Westm. aforesaid, from Easter day in one moneth then next following, to shew wherfore they had not done it. And that the same then Sheriff should then have there the Summons, and that Writ. At which said moneth of Enter before E. A. Knight, and his Associates the Justices of the same Lady the Queen of the Common-Bench here, to wit, at Westm. aforesaid, came as well the same E. A. and W. F. as the same H. and A. W. in their proper persons.

And T. L. Esq; then Sheriff of the County of W. aforesaid, then here returned the Writ aforesaid to him, in form aforesaid, directed in all things served and executed to wit, that the same A. and W. F. had found to the then said Sheriff, Pledges to prosecute that Writ, to wit, J. D. and R. Roo. and that the same H. P. and A. were summoned by J. D. and R. Fen.

And

And hereupon the same E. A. and W. F. declaring against the same H. P. and A. upon their Writ aforesaid, in their proper persons then demanded against the same H. P. and A. the Mannors, Tenements, and Rents aforesaid, with the Appurtenances, as their Right and Inheritance; and unto which the same H. and A. had no Entrance, unless after the disseisin which Hugh Hunt thereof unjustly, and without Judgment did to the same E. A. and W. F. within thirty years &c. then last past &c. And whereupon they said that they were seised of the Mannors, Tenements, and Rent aforesaid with the Appurtenances in their Demeasne, as of Fee and Right, in the time of peace, in the time of the said late Queen Eliz. taking thereof the profits, to the value &c. and into which &c. And thereof they brought Suit &c. And the same H. P. and A. in their proper persons then defended their right when &c. And then called thereof to warrant W. P. Gent. Son and Heir apparent of the said H. P. his Father, who was then present in the Court here in his own person; and freely the Mannors, Tenements, and Rent aforesaid, with the Appurtenances to them warrant &c.

And hereupon the same E. A. and W. F. then demanded against the same W. P. Tenant, by his Warranty, the Mannors, Tenements and Rent aforesaid, with the Appurtenances in form aforesaid &c. And whereupon they then said, That they were seised of the Mannor, Tenements, and Rent aforesaid, with the Appurtenances in their Demeasne, as of Fee and Right, in the time of peace, in the time of the said Lady Eliz. late Queen of England, taking thereof the profits, to the value &c. and into which &c. and thereof they then brought Suit &c. And the same W. P. Tenant by his Warranty, defended his Right when &c. And further, then called thereof to Warranty D. H. who then likewise was present here in his own person: and freely the Mannors, Tenements, and Rent aforesaid, with the Appurtenances to them then warranted &c.

And hereupon the same E. A. and W. F. then demanded against the same D. Tenant, by his Warranty, the same Mannors, Tenements, and Rent aforesaid, with the appurtenances, in form aforesaid &c.

And whereupon they then said, That they were seised of the Mannors, Tenements, and Rent aforesaid, with the appurtenances, in their Demeasne, as of Fee and Right in the time of peace, in the time of the Lady Eliz. late Queen of England, taking thereof the profits, to the value &c. and into which &c. and thereof they then brought Suit &c.

And the same D. H. then Tenant, by his Warranty, defended his Right, when &c. and then said, that the same Hugh had not disseised the same E. A. and W. F. of the Mannors, Tenements, and Rent aforesaid, with the appurtenances, as the same E. A. and W. F. by their Writ and Declaration aforesaid had above supposed. And hereupon then put himself upon the Country, &c.

And the same E. A. and W. F. then prayed licence thereof to imparl, and had it &c. And afterwards the same E. A. and W. F. came back again into the same Court, that same Term, in their proper persons: and the same D. H. then solemnly being called, came not again, but departed in contempt of the Court and made default.

Therefore it was then considered in the same Court here, that the same E. A. and W. F. should recover their Seisin against the same H. P. and A. the Mannors, Tenements, and Rent aforesaid with the appurtenances: and that the said E. A. and W. F. should have of the Lands of the same W. P. to the value &c. And that the same W. further have of the Lands of the said D. H. to the value &c. and that the same D. H. should be in mercy &c.

And

And hereupon the same E. A. and W. F. then prayed the Writ of the same Lady the Queen, to be directed to the Sheriff of the County, to cause to be delivered to them full Seisin of the Mannor, Tenements, and Rent aforesaid, with the appurtenances: and to them it was then granted returnable here immediately &c.

Afterwards to wit, the 28. day of May, that same Term, came here into the Court the same E. A. and W. F. in their proper persons.

And then the Sheriff of the County of W. to wit, T. L. Esquire, then returned, That he by vertue of the same Writ to him directed the 23. Day of May then last past caused to be given to the same E. A. and W. F. full Seisin of the Mannor, Tenements, and Rent aforesaid, with the Appurtenances; as by the same Writ it is commanded him &c.

Uses of the
Recovery.

Which said Recovery, in form aforesaid had, was had to the use of the same H. P. the Father, for term of his life: and after the decease of the same H. P. the Father, then to the use of the same W. P. and the Heirs Males of the Body of the same W. upon the Body of Elianor A. lawfully begotten, with intention, that there should be paid out of the same two hundred Acres of Pasture, with the Appurtenances, in which &c. amongst other things, to such of the Servants and Friends of the same H. P. the Father, during their several lives, several Sums of Money, and Annual Rents, to them or all of them, or any of them, limited and appointed to be paid by the last Will in Writing of the same H. P. the Father, or by other his Deeds in Writing, lawfully to be executed and appointed: So that the Sons &c. to the said Servants and Friends, should not exceed the Yearly Rent of sixty pounds by the Year, or for any longer time, then during the life of every of them.

By vertue of which Recovery, and force of a certain Act in Parliament of the Lord Henry, late King of England, the 8. at Westminster aforesaid, Anno 27. for transferring of Uses into possession, held, made, and provided.

The same H. P. the Father, was seised amongst other things, of the same two hundred Acres of Pasture, with the Appurtenances, in which &c. in his Demeasne, as of free Tenement for term of his life, the Remainder to the same W. and the Heirs Males of the Body of the same W. of the Body of the same E. A. lawfully begotten.

The Father seised for life,
the remainder in rayl.

Limitation by the Tenant for life, of a Yearly Rent of Twenty Pounds to the youngest Son, after the death of the Tenant for life, according to the uses aforesaid.

And the same H. P. the Father, so being thereof seised, the Remainder thereof to the same W. in form aforesaid, belonging to the same H. P. the Father afterwards, and before the same time in which &c. to wit, the 20. Day of September, Anno Eliz. Regina 24. abovesaid, at C. aforesaid, by his certain Writing, which the same H. P. the Son, and G. with the Seal of the same H. P. the Father, Sealed here in Court, bringeth, whose Date is the same Day and Year limited and appointed to the same H. P. the Son, by the name of H. P. my youngest Son, and beloved Friend, a certain Annual Rent of twenty pound, issuing out of the same two hundred Acres of Pasture, with the Appurtenances, in which &c. amongst other things aforesaid, by the names of certain his Lands and Pasture, lying and being in C. aforesaid, in the same County of W. called or known by the name or names of

Le.

Le. B. otherwise B. Le. Mill-Hill, and Le. R. Close, near S. Cuthbert, to have, levy, and receive the same Annually Rent of the same Twenty Pounds to the same H. P. the Son, or his Assigns, from the day of the death of the same H. P. the Father, for and during the term of the natural life of the same H. P. the Son, to be paid yearly at the Feasts of Saint Michael the Archangel, and the Annunciation &c. by equal portions. The first payment thereof to begin at the same Feast of the Feasts aforesaid, which next after the death of the same H. P. should happen to come.

And afterwards, and before the same time, in which it. to wit. the 21. day of March, Anno Dom. 1585. the same H. P. the Father at C. aforesaid died: and the same H. P. the Son survived him.

By virtue of which said limitation & appointment, and force of the Statute aforesaid the same H. P. the Son was seized of the said Annual Rent of Twenty Pounds in his Demeasne as of Free Tenement, for term of his life. And because One Hundred and Ten Pounds of the Yearly Rent aforesaid for the same five whole years and a half of one year ended, at the Feast of the Annunciation of the blessed Virgin Mary, Anno Regis 8. abovesaid, after the death of the same H. P. the Father, the same H. P. the Son the same time in which it. were in arrear, and not paid the same H. P. the Son, for the same One Hundred and Ten Pounds, so being in arrear, well aboweth. And the same G. as Bayliff of the same H. P. the Son well acknowledgeth the taking of the Cattle aforesaid, in the same place, in which it. and justly it. as in the Lands to the same H. P. the Son charged and tied to distress, it. with this, that the same H. P. the Son, and G. will verify that the same two Hundred Acres of Pasture with the Appurtenances in which &c. are parcel of the Lands and Tenements aforesaid; in the Recovery aforesaid, above specified &c. and that the same H. P. at the time of the Recovery aforesaid in form aforesaid had, and at the time of the limitation and appointment of the Yearly Rent aforesaid in form aforesaid granted, was Friend of the same H. P. the Father &c.

And the same E. P. saith, That the said H. P. the Son, for the reason aforesaid alledged, the taking of the Cattle aforesaid, in the same place, in which ought not justly to avow; neither the same G. as Bayliff of the same H. P. the Son, for the same reason, the taking of the Cattle aforesaid, ought justly to acknowledge; because he saith, that well and true it is, that the same H. P. the Father, was seized of the same two hundred acres of Pasture, with the appurtenances, in which &c. in his Demeasne as of Fee.

Tenant for life dieth, and the youngest Son surviveth, and is seized of the Rent-Charge.

Avow for five years, and an half for Rent-Charge.

Averment, that the place in *quo*, was parcel of the Lands contained in the common Recovery; and that the youngest Son at the time of the limitation, was a Friend of the Grantors.

A brief Confession of the Seisin of the Father, and of the common Recovery, the limitation, the Rent, and the death of the Father.

And the same H. P. being so thereof seised the same E. A. and W. F. by the same Writ, De ingressu super disseiam in le poss, recovered their Seisin against the same H. P. Esquire, and A. of the Mannor, Tenements, and Rent aforesaid, with the Appurtenances, whereof ic. And that Seisin of the same Mannor, Tenements, and Rent aforesaid, with the Appurtenances; whereof ic. by the same late Sheriff, to the same E. and W. in form aforesaid, was delivered: And that the same H. P. the Father, the same 20. day of S. Anno Eliz. Reginae 24. abovesaid, by his said Writting, was limited and appointed to the same H. P. the Son, by the name of H. P. my youngest Son, and beloved Friend, the same Yearly Rent of Twenty Pounds, issuing out of the same two hundred acres of Pasture, with the appurtenances, amongst other things, to have and receive the same Yearly Rent of twenty pounds, to the same H. P. the Son, or to his Assigns, from the Day of the Death of the same H. P. the Father, for and during the natural life of the same H. P. the Son, to be paid Yearly at the same Feasts of the Annunciation &c. and St. Mich. &c. by equal portions: The first payment thereof, to begin at that Feast of the Feasts aforesaid, which next after the death of the same H. P. the Father, should next happen to come; and that the same H. P. the Father died; and that the same H. P. the Son forbided him; as the same H. P. the Son, and G. by their Avowry aforesaid above supposed.

And further sheweth a Clause of Distresse, limited by the same Grant; and that the same Lands were appointed for divers other uses, to wit, divers Estates in Remainder; and after their determination, the Rents to be raised for the same uses, &c.

And the same E. further saith, That the same H. P. the Father, further by the writing aforesaid granted, that if it should happen the same Yearly Rent of Twenty Pounds aforesaid, to be behind, and not paid in part, or in all after any of the Feast of the Feasts aforesaid, in which, as aforesaid it ought to be paid, that then it should be very lawfull to the same H. P. the Son and beloved Friend, his Heirs and Assigns, into the same two hundred acres of Pasture, with the appurtenances, with all and singular their appurtenances, and into every parcel thereof to enter and distrain; and the Distresses so there taken and had, lawfully to take, carry away, chafe and keep by them, until the same Annuity, or Yearly Rent of Twenty Pounds, together with the arrearages thereof, if any be, be fully satisfied and paid.

And the same E. further saith, That long before the suffering of the Recovery aforesaid, in form aforesaid; and long before the limitation and appointment of the Yearly Rent aforesaid, the same H. P. the Son, to wit, the 6th. day of May, Anno 24. Eliz. Reginae, at C. aforesaid, by his certain Indenture, tripartite, made between the same H. P. the Father, and A. his Wife, by the names of H. P. of C. in the County of Warwick, and A. his Wife, on the first part; and W. A. Knight, by the name of W. A. of T. in the County of S. Knight, of the second part, and W. F. Esquire; and E. A. by the names of W. F. Son and Heir apparant, of B. F. of N. in the same County of W. Esquire; and E. A. Son and Heir apparant of the same W. on the third part; whereof one part with the Seales of the same Sealed, the same E. here in Court bringerth, whole Date is the same Day and Year; amongst other things it was granted and agreed, by, and between the parties aforesaid, unto the same Indenture, that the Recovery aforesaid should be.

And

And that the Recoverours, in the same Recovery named, and their Heirs after the same Recovery had should stand, and be for ever seised of the same Close, or Pasture, called the Mill-Hill aforesaid, to the same Close, or Pasture, called the New Rams Close, next adjoining unto S. and of the same Close or Pasture, called B. otherwise B.

All which said Closes, were parcel of the Lands and Tenements in C. aforesaid commonly called the Great Field of C. and then late divided and converted into several parcels, with Ditches and Hedges to the use of the same H.P. the Father of the same W. for term of his life, without impeachment of any waste: and after his Decease then to the use of W.B. the Son and Heir apparent of the same H.P. the Father, and the Heirs Males of the Body of the same W. upon the Body of the same E.A. lawfully coming.

And for default of such Issue, then to the use of J. P. one other of the Sons of the same H.P. the Father, and to the Heirs Males of the Body of the same J. lawfully begotten.

And for default of such Issue, then to the use of the Heirs Males of the Body of the same H.P. the Father lawfully begotten;

And for default of such Issue, then to the use of the Heirs Males of the Body of J.P. the Grand-Father of the same H.P. the Father;

And for default of such Issue to the right Heirs of H.P. the Father of the same W. for ever: so long as the same W.P. and his Heirs Males;

And for default of such Issue, so long as the same J.P. the Son, and his Heirs Males;

And for default of such Issue so long as the same Heirs Males of the same J.P. the Grand-Father:

And for default of such Issue, so long as the same right Heirs of the same H.P. the Father of the same W.S. should pay or cause to be paid to such servants and Friends of the same H.P. the Father of the same W. during their several lives, several Sums of Money to them or all or any of them, limited and appointed to be paid to them by the last Will and Testament in Writing of the same H. the Father or any other sufficient Deed in Writing to be lawfully executed in his life-time: So as all the same several Sums so limited and appointed to their servants and Friends, exceed not the clear yearly Sum of sixty pounds of lawful money of England, nor for longer time then during the natural life of every of them.

And for default of such payment of all, or any of the aforesaid Sums of Money, then the premises to be to the use of such servants or Friends of the same H. P. the Father, unto whom such default of payment thereof should be made, until they and every of them so being unpaid should levy, receive and take of the Issues and Profits of the same Lands and Tenements last limited for the use of the several Sums of Money, so out of the same, or any of them, should be due; together with the arrears and charges thereof, and their reasonable charges and expences, if any should happen to be.

And from and after such payment and satisfaction, then the same Lands and Tenements should be to the use of such person and persons, and their Heirs as is before limited, until such and other defaults of payment to be made according to the true intention of the same Indenture. And after the same satisfaction of the same default, or defaults of payments aforesaid, then to the use of the Heirs aforesaid.

And

And so upon every such Default of payment, and re-payment and satisfaction, the same uses of the premises, to save, to be better, debested, and re-bested; and from every such person and persons one to the other, according to the limitations abovesaid; & according to the full & true intent & purpose of the same Indenture; as by the same Indenture, amongst other things, more fully appeareth; and this he is ready to verifie: Whereupon, for that the same H. P. the Son, and G. the taking of the Cattle aforesaid, in the same place, in which &c. above acknowledge: The same E. prayeth Judgment and her Damages by occasion of the taking, and unjust detaining of those Cattle to be adjudged to her &c. with this, that the same E. will verifie that the same H. P. the Son now Adversant; and the same H. P. the Son, in the Indenture aforesaid, above specified, is one and the same person, and no other, nor divers &c.

Spec. Demurrer to the Bar, in Avowry, for that the Plaintiff neither confesseth, avoideth, nor traverseth the matter in the Avowry.

And the same H. P. the Son, saith, That the same Plea of the same E. above in replying pleaded, and the matter contained in the same, are insufficient in Law, to maintain the Action of the same E. against the same H. P. the Son, and G. for that the same E. in her Replication aforesaid, in form aforesaid pleaded, doth not confesse, avoid, nor traverse any matter of substance by the same H. P. the Son, and G. above in the Avowry aforesaid alledged, and that they unto the same Plea, in manner and form aforesaid pleaded, have no need, nor by the Law of the Land are held to answer; and this they are ready to verifie.

Whereupon, for default of sufficient Replication, of the same E. in this behalf, the same H. P. the Son, and G. pray Judgment; and that the same E. from having her Action aforesaid against them, may be barred &c.

And the same E. from whence the sufficient matter in Law to have and maintain her Action aforesaid, against the same H. P. the Son, and in her Replication hath above alledged, which she is ready to verifie; which said matter, the same H. P. the Sonne, and G. doe not gainsay nor any whit thereunto answer; but to admit of the Justification, altogether refuseth as before, prayeth Judgment and her Damages, by reason of the taking, and unjust detaining of the Cattle to them, to be adjudged &c.

And because the Justices here will advise themselves of, and upon the premises before they give Judgment thereof, day is given to the Parties aforesaid here until xv. Pas. of hearing their Judgment thereof; because the same Justices here thereof not as yet &c.

BROWNLOW.

Court in
Replevin.

H 2. Ja. Rot. 1710. Somers. ff. G. B. Was summoned to answer E. C. of a Plea, wherefore he took one Gelding of the same E. and him unjustly detained against Sureties and Pledges &c. And whereupon the same E. by T. I. her Attorney, complaineth that the same C. the 15. day of April, Anno Regine Eliz. 39. at Westm. in a certain place called P. S. took the same Gelding of the same E. and him unjustly detained against Sureties and Pledges until &c. Whereupon she saith, that she is the worse, and hath Damage, to the value of twenty pounds: and thereof bringeth Suit, &c.

And

And the same R. by W. H. his Attorney cometh and defendeth the force and wrong, when, &c. And as Bayliff of the same I. W. well acknowledgeth, the taking of the Gelding of the same M. in the same place, in which, &c. and justly, &c. because he saith, That the same place, in which the taking of the Gelding aforesaid, is supposed to be done, doth contain and at the same time, wherein the taking of the Gelding aforesaid, was supposed to be done, did contain in it self 5. Acres of Land, with the Appurtenances in C. aforesaid, And that long before the same time, in which, &c. one D. Knight, was seised of the Mannor of C. with the appurtenances in the County aforesaid, whereof the same five Acres of Land, with the appurtenances, in which, &c. are, and the same time in which, &c. And also from the time, whereof the memory of man is not to the contrary, were parcel in their Demeasne, as of fee, And that the same five Acres of Land, with the appurtenances are, and the same time, in which, &c. were Customary Lands of the same Mannor, and demised and demisable by the Copy of Court Roll of the same Mannor, by the Lord of the same Mannor, or his Steward of the Court of the same Mannor, for the time being, to any person or persons whatsoever, who, or which are willing to take the same, for terme of life, or lives, at the will of the Lord, according to the Custom of the Mannor aforesaid. And the same C. of the Mannor aforesaid, with the appurtenances, whereof, &c. in form aforesaid, being seised, the same C. before the same time, in which &c. to wit, at the Court of the same C. of his Mannor aforesaid held at that Mannor, the 27. day of March, Anno Eliz. Rite, 39. by one J. C. then Steward of the Court, of the Mannor aforesaid, by Copy of Court Roll, of the same Mannor demised to the same J. W. the same five Acres of Land, with the Appurtenances, in which, &c. to have and to hold the same 5. Acres of Land, with the appurtenances to the same J. for terme of his life, at the will of the Lord, according to the Custom of the Mannor aforesaid, By vertue of which Demise, the same J. W. before the same time, in which, &c. into the same 5. Acres of Land, with the Appurtenances entred, and was; and yet is thereof seised in his Demeasne, as of free Tenement for terme of his life, at the will of the Lord, according to the Custom of the said Mannor. And because the Gelding aforesaid, the same time, in which, &c. was in the same place, in which, &c. eating the grasse then there growing, and doing damage there, the same C. as Bayliff of the same J. W. well acknowledgeth the taking of the Gelding aforesaid, in the same place, in which, and justly, &c. doing damage there &c.

Copy holder avoweth for the taking of a Gelding damage feizant.

Grant by Copy for life.

Dammage feizant.

Baire in Avowry.

And the same E. saith, that the same G. as Bayliff of the same I. W. for the reason before alledged the taking of the Gelding aforesaid, in the same place, in which, &c. ought not justly to acknowledge, because he saith, that well and true it is, that the same 5. Acres of Land, with the appurtenances, in which, &c. are, and at the time of the taking, &c. and also from the whole time aforesaid were parcel of the Mannor aforesaid, with the Appurtenances, and were Customary Lands of the same Mannor, and demised and demisable, by Copy of Court Roll, of the same Mannor, by the Lord of the same Mannor, or by his Steward of the Court of the same Mannor, for the time being, to any person, or persons whatsoever, who, or which will take the same for terme of life, or lives, at the will of the Lord, according to the Custom of the same Mannor, as the same G. hath above alledged; but the same E. C. further saith, that long before the same E. D. had any thing in the Mannor aforesaid, with the appurtenances, whereof, &c. one E. late Duke

Confession that the Lands are Copy hold Lands, but further saith, that before the Lord, in the Avowry, &c. had any thing, and neither was seised in fee of the same Mannor,

nor, and granted it to the Plaintiff, and another who is dead, and the said 5. Acres successively for lives, and that the other is dead, the Plaintiff eaters by life of the remainder, and puts in his Cattle.

of Sonds. was seised of the Mannor aforesaid, with the Appurtenances; in which, &c. in his Demesne, as of fee. And being so thereof seised, the same Duke, before the same time of the taking, &c. to wit, at the Court of the same late Duke of his Mannor aforesaid, held at the same Mannor, the 23. day of Septemb. Anno. 31. Edw. 6. 2. by one J. B. then Sheriff of the Court of the same Mannor, by Copy of Court Roll of the same Mannor, demised to one J. C. and to the same E. C. the same 5. Acres of Land, with the appurtenances, in which, &c. to have and to hold to the same J. and E.

Particular Custom of the Mannor, that if Lands are granted to two for lives successively, by one Copy that the first named, shall have the moiety of the Estate for life, and the 2d. named in the Copy, by Remainder, after him, &c.

for terme of life, and the longest liver of them successively, at the will of the Lord, according to the Custom of the Mannor aforesaid. And the same E. further saith, that within the Mannor aforesaid is had, and from the whole time abovesaid, such a Custom was had, to wit, that if any Customary Lands, or Tenements, of the Mannor aforesaid, should be demised, by one Copy of Court Roll, of the Mannor aforesaid, to two persons, in the same Copy nominated, for terme of their lives, and the longest liver of them successively, at the will of the Lord, according to the Custom of the same Mannor, then the first person, in such Copy

nominated, may have and hold, and to have and hold, right, and were accustomed such Customary Lands, or Tenements by such Copy so granted to himself alone, for terme of his life. And the second person in such Copy nominated after the death of such first person may have and hold, and was accustomed to have and hold the same Customary Tenements, for terme of his life, to himself alone, according to the Custom of the Mannor aforesaid; and by which, and by vertue of the same Demise, to the same J. C. and E. C. so made, the same J. C. being the first person in the same Copy named, into the same 5. Acres of Land, with the appurtenances entered, and was thereof solely seised in his Demesne, as of fee, Tenement, for terme of his life at the will of the Lord, according to the Custom of the said Mannor the remainder thereof after his decease to the same E. for terme of his life according to the Custom of the Mannor aforesaid belonging. And the same J. of the said 5. Acres of Land, with the appurtenances, in form aforesaid, being seised, the remainder thereof to the same E. C. in form aforesaid belonging: the same J. C. afterwards, and before the same time of the taking, &c. at W. aforesaid, dyed, after whose death, and before the same time of the taking, &c. the same E. C. into the same 5. acres of Land, with the appurtenances entered, and was thereof seised in his Demesne as of fee Tenement for terme of his life, at the will of the Lord, according to the Custom of the Mannor aforesaid, And being so thereof seised, and before the same time of the taking, &c. put the same Gelding in to the same 5. acres of Land, with the appurtenances in which, &c. to eat the grass then there growing. And the same Gelding was in the same 5. acres of Land, with the appurtenances, the grass then there growing, eating until the same G. the same 15. day of April, An. 39. abovesaid at W. aforesaid, in the same place called Place-Lease, took the same Gelding of the said E. and him unjustly detained against Sureties, and pledges, until, &c. as he above against him complaineth.

And that he is ready to verifie, whereupon, for that the same G. the taking of the Gelding aforesaid, in the same place, in which, &c. above acknowledged the same E. prayeth Judgment, and his damages, by occasion of the taking, and unjust detaining of the said Gelding, to him to be adjudged, &c.

Tenant for life dieth.

The Plaintiff enters as in Remainder for life, and puts in his Cattle, &c.

And the said G. saith, that well and true it is, that the same late Duke of Souds, was seised of the same Mannor of W. with the appurtenances whereof, &c. in his Demeraine, as of fee; And that within the same mannor, is had, and from the whole time aforesaid, such a Custom was had, to wit, that if any Customary Lands, or Tenements of the Mannor aforesaid, should be demised by one Copy of Court Roll, of the Mannor aforesaid, to two persons in the same Copy, named for terme of their lives, or the life of the longest liver of them successively, at the will of the Lord, according to the Custom of the said Mannor, then the first person in such Copy named, may have and hold, and to have and hold, were accustomed such Customary Lands or Tenements, by such Copy to him granted to him alone, for terme of his life.

Replication to the Barr to the Avowry, that I.S. and the Plaintiff surrendered, and that a new Estate was granted to the said J.S. and his Wife for life, who dye, and that afterwards, an Estate by Copy, was made to the Master of the Avowant, who as Servant, &c.

And the second Person in such Copy, named after the death of such first person may have and hold and was accustomed to have and hold the same Customary Tenements for terme of his life, to himself alone, according to the Custom of the Mannor aforesaid. And the same Duke of the Mannor aforesaid, with the appurtenances whereof, &c. in form aforesaid being seised, the same Duke, at the same Court of the said late Duke, at his Mannor aforesaid, held at the same Mannor, the same 27. day of Septemb. An. Edw. 6. 2. above said by the same T. B. then his Steward, of the Court of his Mannor aforesaid demised, to the same J. C. and E. C. the same 5. acres of Land, with the appurtenances in which, &c. To have and to hold to the same J. C. and E. C. for terme of their lives; and the longest liver of them successively, at the will of the Lord, according to the custom of the Mannor aforesaid; By vertue of which Demise, the same J. C. into the same 5. Acres of Land, with the Appurtenances, entred, and was thereof seised in his Demeraine, as of free Tenement for terme of his life, at the will of the Lord, according to the custom of the Mannor aforesaid: the remainder thereof, after his decease to the same E. C. for terme of his life, at the will of the Lord, according to the custom of the Mannor aforesaid belonging, as the same E. hath above alleged. But the same G. further saith, that the same J. C. of the same 5. Acres of Land, with the appurtenances in form aforesaid, being seised, the Remainder thereof to the same E. C. in form aforesaid belonging. And the same late Duke, of the Mannor aforesaid, with the Appurtenances, in which, &c. in form aforesaid; being seised, the same late Duke, before the same time, in which, &c. to wit, the 25. day of March, An. 3. Edw. 6. at Westminster aforesaid, demised the Mannor aforesaid, with the Appurtenances, whereof, &c. to one T. M. Esquire, to have and to hold to him and his Assignes, from the same 25. day of March, An. Edw. 6. 3. above said, unto the end and terme of 3. years, from thence next following, and fully to be compleat and ended.

Lease made of the Mannor for years.

Entry of the Lessee into the Mannor.

Reversion of the Mannor warranted in fee.

By vertue of which Demise, the same T. M. before the same time, in which, &c. into the Mannor aforesaid with the appurtenances entred & was thereof possessed, & being so thereof possessed the reversion thereof to the same D. and his Heirs belonging. And the same J. C. of the same 5. acres of Land with the appurtenances in form aforesaid being seised according to the Custom of the Mannor aforesaid the remainder hereof to the same E. C. in form aforesaid belonging the same Duke afterwards, and before the same time, in which, &c. to wit, the 20. day of April, An. Ed. 6. 4. at W. aforesaid by his certain writing, with his Seal sealed, bearing date the same day and year, granted to the same E. D. Knight, by the name of E. D. Gentleman.

Replevin.

Lessee of the
Mannor Act-
ton.

J. S. grantee
in the C. py.
and the Plain-
tiff surrenders
the same five
Acres into the
Lords hands
for a time, to
wit, a Lease
for years.

Lord for the
time agrees to
the Surrender.

The Lord re-
grants to the
said J. S. and
his Wife, for
two lives.
The Husband
admitted Ten-
nant.
The Husband
enters re-
mainder for
life to the
Feme.

Term of
years expired.

He in reversion enters into
the Mannor.
Baron and Feme Leases
for life dye.
The Lord grants to the
Master of the Avowant,
the same 5. Acres by Copy
for life.

The Reversion of the Mannor aforesaid, with the appurtenances where-
of, &c. to have and to hold, to the same E. D. his Heirs and Assignes for ever,
unto which said grant, the same T. M. of the Mannor aforesaid, with the ap-
purtenances, whereof, &c. in form aforesaid, being possessed, and before the
same time in which, &c. to wit, the first day of March, Anno Edw. 6. 5. at
Westminster aforesaid, himself, to the same E. D. thereof attorned. By pre-
text of which said Grant and Attornment, the same E. D. was seized of the
same Reversion of the Mannor aforesaid, with the appurtenances, whereof,
&c. in his Demesne, as of fee. And being so thereof seized, and the same
T. M. of the Mannor aforesaid, with the appurtenances, whereof, &c. in form
aforesaid, being possessed, and the same J. C. of the same 5. Acres of Land,
with the appurtenances, in which, &c. in form aforesaid, being seized, the
Remainder thereof to the same E. C. in form aforesaid belonging, the same
J. C. and E. C. afterwards, and before the same time, in which, &c. to wit, at
the Court of the same T. M. Farmer of the said Mannor, held at the same
Mannor, the 14. day of April, Anno 9. Eliz. surrendered into the hands of
the same T. M. then Farmer of the Mannor aforesaid, with the Appurte-
nances, whereof, &c. being according to the Custom of the same Mannor,
the same 5. Acres of Land, with the appurtenances, in which, &c. with the
intention, that the same Farmer should re-grant the same 5. acres of Land,
with the appurtenances to the same J. C. and A. then his Wife, unto which
surrender, the same T. M. of the Mannor aforesaid, with the appurtenances
whereof, &c. in form aforesaid, being possessed then and there agreed. And
at the same Court of the said Mannor, the same Farmer, by Copy of Court
Roll, granted the same 5. acres of Land, with the appurtenances, in which,
&c. to the same J. C. and A. his Wife, to have and to hold to the same J. and
A. for terme of their lives, and the longest liver of them, according to
the Custom of the Mannor aforesaid; which said J. C. at that Court, was
admitted thereof Tenant according to the Custom of the Mannor aforesaid.
By pretext whereof the same J. C. before the same time, in which, &c. into
the same 5. acres of Land with the appurtenances, in which, &c. entered and
was thereof seized in his Demesne, as of fee Tenant, for terme of his
life, at the will of the Lord, according to the Custom of the same Mannor,
the remainder thereof to the same A. for terme of her life, according to the
Custom of the Mannor aforesaid belonging. And the being so thereof seized,
the same J. C. of the same 5. Acres of Land, with the appurtenances, in which,
&c. in form aforesaid, being seized, the remainder thereof to the same A. in
form aforesaid belonging. And the said E. D. of the Reversion of the Re-
version of the Mannor aforesaid with the appurtenances whereof, &c. in form
aforesaid, being seized the same terme of 30. years, to the same T. M. by the
same Duke, in form aforesaid granted, and before the same time, in which,
&c. to wit, the 23. day of March, Anno 9. Eliz. ended and expired.

And the same E. D. into the Mannor aforesaid, with the appurtenances,
entered and was thereof seized in his Demesne, as of fee, And he being so
thereof seized, the same J. E. and A. afterwards, and before the same time,
in which, &c. at W. aforesaid, died.

After whose death and he ore the same time, in which, &c. the same E. D.
of the same Mannor, with the appurtenances whereof, &c. in form aforesaid
being seized at the same Court of the said
E. D. held at the Mannor aforesaid, the seventeenth day of
March, Anno 39. Eliz. abolished by Copy of Court Roll,
of the mannor aforesaid demised, the same five Acres of
Land, with the appurtenances in which, &c. to the same J.
W. to have and to hold to the same J. W. for terme of his
life,

life, at the will of the Lord, according to the Custom of the Mannor aforesaid, By vertue of which Demise, the same J. W. into the same 5. Acres of Land, with the Appurtenances, in which, &c. entred, and was, and yet is thereof seised, in his Demeasne, as of free Tenement for terme of his life, according to the Custom of the Mannor aforesaid, as the same G. hath alledged. And this he is ready to verifie; whereupon he prayeth judgment; and return of his Gelding aforesaid, to him to be adjudged, &c.

Whereby
he enters:

And the same E. C. as before saith, that the same late Duke of S. was seised of the Mannor aforesaid, with the Appurtenances whereof, &c. in his Demeasne, as of fee, And being so thereof seised, the same Duke, before the same time of the taking, &c. to wit, at the same Court of the said late Duke, at his Mannor aforesaid, held at that Mannor, the same 23. day of Septemb. An. 2. Edw. 6. abovesaid, by the same J. B. his then Steward of the Court of his Mannor, by Copy of Court Roll, of the same Mannor granted to the same J. C. and to the same E. C. the same 5. Acres of Land, with the Appurtenances in which, &c. amongst other things, to have and to hold to the same J. and E. for terme of their lives, and the longest liver of them successively, at the will of the Lord, according to the Custom of the same Mannor, And that within the same Mannor is had, and by the whole time abovesaid was had such a Custom, to wit, that if any Customary Lands or Tenements of the Mannor aforesaid, should be demised by one Copy of Court Roll of the Mannor aforesaid, to two persons in the same Copy nominated, for terme of their lives, or the life of the longest liver of them successively, at the will of the Lord, according to the Custom of the same Mannor, then the first person in such Copy nominated, may have and hold, and was accustomed to have and hold such Customary Lands, or Tenements, by such Copy so granted to him alone, for terme of his life.

The Plain-
tiff main-
tains his
Barr to the
Avowry,
and traver-
seth the Sur-
render.
Rejoynder:

And the second person in such Copy named, may have and hold, and was accustomed to have and hold the same Customary Tenements, to him alone, for terme of his life, according to the Custom of the Mannor aforesaid, whereby, and by vertue of the Demise aforesaid, to the same J. C. and E. C. so made, and of the Custom aforesaid, the same J. C. being the first person in the same Copy named into the same 5. Acres of Land, with the Appurtenances entred, and was thereof seised in his Demeasne, as of free Tenement for terme of his life, at the will of the Lord, according to the Custom of the said Mannor, the remainder thereof after his decease to the same E. for terme of his life, according to the Custom of the Mannor aforesaid belonging.

And the same J. C. of the same 5. Acres of Land, with the Appurtenances, in which, &c. in form aforesaid, being seised, the remainder thereof to the same E. C. in form aforesaid belonging, the same J. C. afterwards and before the same time of the taking, &c. at Westminster aforesaid died.

After whose death, and before the same time of taking &c. the same E. C. into the same 5. Acres of Land with the Appurtenances, in which, &c. entred, and was, and yet is thereof seised in his Demeasne, as of free Tenement for terme of his life, at the will of the Lord, according to the Custom of the Mannor aforesaid, as he hath above alledged, without that, that the same J. C. and the same E. C. at the same Court of the said T. M. Farmer of the Mannor aforesaid, with the Appurtenances, whereof, &c. held at the same Mannor, the 14. day of April, An. 9. abovesaid, surrendered into the hands of the same T. M. Farmer of the Mannor aforesaid, according to the Custom of the same Mannor the same 5. Acres of Land, with

The sur-
render tra-
versed.

the Appurtenances in which, &c. in manner and form as the same G. hath above alledged.

And this he is ready to verifie, whereupon, as before, he prayeth judgment and his damages, by occasion of the taking, and unjust detaining of the Gelding aforesaid, to him to be adjudged, &c.

Surrender is the issue upon the Travers of the Surrender.

And the same G. as before, saith that the same J. C. & E. C. at the same Court of the said I. M. Farm. of the said Mannor, with the Appurtenances whereof, &c. held at the same Mannor, the 14. day of April, An. 9. above-said, surrendered into the hands of the same T. M. Farmer, of the Mannor aforesaid, according to the Custom of the Mannor aforesaid, the same 5. Acres of Land, with the Appurtenances, in which, &c. in manner and form as the same G. hath above supposed, and of this, he putteth himself upon the Countrey, &c. and the same E. C. likewise: therefore the Sheriff is commanded, that he cause to come here in Oct. Pur. beatæ Mariæ 12. &c.

Count in Replevin, M. 9. Ja. Rot. 1304.

H. 9. Ja. Rot. 1610.

One of the Defendants pleads *non cepit*, Feme pleads in abatement of the Writ, for that she is under Covert Baron, to wit, an estranger to the Writ, and not named in the Writ.

3d avoweth as Bayliff to the Husband and Wife, for the said part of the Rent reserved.

Wilkes ff. R. B. and M. his Wife were summoned to answer W. I. Sent. of a Plea, wherefore they took the Cattle of the same W. I. and them unjustly detained against Sureties and Pledges, &c. And whereupon the same W. I. by I. K. his Attorney complaineth that the same R. M. and W. S. the 30. day of May, An. Rs. 9. and Scoc. 44. at K. in a certain place called S. took the Cattle, to wit, two Oxen, of the same W. I. and them unjustly detained against Sureties and Pledges, until, &c. whereupon he saith, that he is the worse, and hath damage, to the value of 20l. and thereof bringeth Suit, &c.

And the same R. and W. S. and one M. the Wife of one E. S. saying, that she is the same person, against whom the same W. I. brought his Writ aforesaid, by the name of M. the Wife of the same R. B. by I. P. their Attorney come and defend the force and wrong, when, &c.

And the same R. saith, that he took not the Cattle aforesaid, as the same W. I. by his Declaration aforesaid, above supposed, and of this, he putteth himself upon the Countrey, and the same W. I. likewise, &c.

And the same M. against whom the same W. I. brought his Writ aforesaid, by the name of M. the Wife of the same R. B. saith, that she is, and from the time of the taking of the Cattle aforesaid, done, and long before, and continually afterwards, was and yet is, the Wife of the same E. S. and to the same E. at K. aforesaid, was lawfully married, and not the Wife of the same R. B. as the same W. by his Declaration aforesaid above supposed, and this she is ready to verifie, whereupon she prayeth judgment of the Writ, &c.

And

And the same *W. S.* as Bailiff of the same *E. S.* and *M.* his wife well acknowledged the taking of the Cattle aforesaid in the same place in which, &c. and justly, &c. because he saith that the same place wherein the taking of the Cattle aforesaid is supposed to be done, doth contain, and the same time in which the taking of the Cattle aforesaid was supposed to be done did contain in it self 14. Acres of Pasture with the appurtenances in *K.* aforesaid, and that long before the same time in which, &c. one *J. T.* was seised of one Mes. 20. Acres of Lind, 12. Acres of Meadow, and 16. Acres of Pasture with the appurtenances in *K.* aforesaid, whereof the same place in which, &c. is and at the same time in which, and also from the time whereof the memory of man is not to the contrary, was parcell in his demesne as of Fee, and the same Tenements with the appurtenances held of the Lady *Eliz.* late Queen of England by Knights Service, to wit, by homage fealty and Escuage of the said Lady the Queen of 40 s. when it shall happen 40 s. And to more more, &c. And to lesse lesse, &c. And being so thereof seised, the same *T. I.* before the same time in which, &c. to wit the 8. day of January, Anno 19. *Eliz. Regin* at *K.* aforesaid demised to one *M. W.* the tenements aforesaid with the appurtenances to hold to the same *M.* and her assigns from the Feast of St. Michael the Arch-Angel then last past unto the end and term of 50. years from thence next following and fully to be compleat and ended, if the same *M.* should so long live, paying therefore yearly to the same *I. T.* his heirs and assigns during the terme aforesaid, 46 s. and 4 d. at the Feast of the Annunciation of the blessed Virgin Mary, and St. Michael the Arch Angel, by equal portions yearly to be paid, by vertue of which demise the same *M.* before the same time in which, &c. into the tenements aforesaid with the appurtenances whereof, &c. entred and was and yet is there of possessed and the same *M.* so being thereof possessed and the same *T. I.* of the Reversion thereof in his demesne as of Fee in form aforesaid being seised the same *T. I.* before the same time in which, &c. to wit, the 18. day of February, Anno Domini 1584. at *K.* aforesaid made his last will and Testament in writing, and by the same will gave and bequeathed to one *R.* then his wife two parts of the same Rent of 46 s. 4 d. in form aforesaid reserved into three equal parties to be divided to one *I. I.* one of the Daughters of the same *T. I.* to have and to hold to the same *I.* and his heirs, and afterwards and before the same time in which, &c. to wit, the seventh day of March Anno Domini 1584. above said at *K.* aforesaid died of such his estate thereof seised, after whose death the same *R.* was possessed of the same two parties of the rent aforesaid by vertue of the Legacy aforesaid to him in form aforesaid made, and the same *I.* was seised of the Reversion of the same two parts with the appurtenances in his demesne as of Fee by vertue of the Legacy aforesaid to him in forme aforesaid made, and the Reversion of the third part of the same tenements with the appurtenances whereof, &c. Residue after the death of the same *T. I.* descended to the same *M.* and *I.* as Daughters and heirs of the same *T. I.* whereby the same *M.* and *I.* were seised of the Reversion of the third part of the Tenements aforesaid with the appurtenances whereof, &c. in their demesne as of Fee.

Tenure in Capite by Knight service.

Tenant in Chivalry makes a lease for years reserving rent.

Tenant in Chivalry makes his will and deviseth 2. parts of the rent and 2. parts of the Reversion in fee.

The third part of the Reversion in Fee and of the Rent descends to the heir, at Common Law, to wit, to two parcenors.

And the same *M.* and *I.* so being thereof seised, and the same *I.* of the Reversion of two parts of the Tenements aforesaid with the appurtenances in form aforesaid being seised;

And

And also the same R. of the same two parts of the Rent aforesaid, in form aforesaid, being possessed, the same J. before the same time, in which it, to wit, the 28. day of Sept. Anno 30. Eliz. at K. aforesaid died of such his Estate as well of the same Reversion of the said two Parts of the Tenements aforesaid, with the Appurtenances, as of the Reversion of the Moiety of the said third part of the Tenements aforesaid, being seised without Heir of her body begotten: after whose death the reversion of the same two parts of the Tenements aforesaid, with the appurtenances whereof it. And also the Reversion of the moiety of the third part of the Tenements aforesaid, with the Appurtenances, whereof, it. the reversion descended to the same M. as Sister and Heir of the same J. by which the same M. was solely seised of the whole Reversion of the Tenements aforesaid, with the appurtenances in her Demesne as of Fee.

And being so thereof seised, the same time in which it, at K. aforesaid, took to Husband the same E. S. whereby the same E. and M. were, and yet are seised of the Reversion aforesaid, in their Demesne, as of Fee in Right of the same M.

And because 1 s. and 5 d. for the third part of the Rent aforesaid upon the Demise aforesaid in form aforesaid reserved for one whole year, ended at the Feast of St. Mich. the Archangel. An. Regis nunc, 2. And after the death of the same J. and after the Espousals between the same E. S. and M. celebrated to the same E. and M. in the same place in which it. were in arrear, and not paid the same W. S. as Bailiff of the same E. and M. well acknow-

Vow for the third part of the Rent arrear.

ledgeth the taking of the Cattle aforesaid, in the same place, in which it. for the same 1 s. and 5 d. for the third part of the Rent aforesaid, to the same E. and M. in form aforesaid, being in arrear and justly it. with this, that the same W. S. will verifie, that as well the same R. as the same M. W. are surviving and in full life; to wit, at K. aforesaid, it.

Replication to the Plea in abatement.

And the same W. J. as to the same Plea of the said M. in quashing of the Writ of the same W. above pleaded, saith, That his Writ aforesaid, for the reason before alleged, ought not to be quashed, because he saith, that the same M. at the time of the taking of the Cattle aforesaid, done, and long before, and continually after hitherto, was the Wife of the same R. B. as by the same Writ is supposed.

And this prayeth may be inquired of by the Countrey. And the same M. likewise: And as to the same acknowledgment of the same W. S. above pleaded the same, W. J. saith that the same W. S. as Bailiff of the same E. S. and M. for the reason before alleged, the taking of the Cattle aforesaid in the same place, in which it, justly ought not to acknowledge, because protesting that the same T. J. was not seised of the Tenements aforesaid, with the appurtenances, whereof it. in his Demesne as of Fee: as the same W. S. hath above alleged. For Plea the same W. J. saith, that the same M. long before the same time of the taking it, was and yet is wife of the same R. B. and long before the same time of the taking it, to wit, the 6. day of Octob. Anno Eliz. 22. the same M. took to Husband the same R. B. with out this that the same M. at the time of the taking it, was wife of the same E. S. as the same W. S. hath above alleged; and this he is ready to verifie: Whereupon for that the same W. S. the taking of the Cattle aforesaid, in the same place, in which it. above acknowledgeth: the same W. J. prayeth Judgment, and his Damages, by occasion of the taking, and unjust detaining of the Cattle aforesaid to him to be adjudged it.

To the Avowry, he saith, that the Feme is wife to one of the Defendants, as he brought his Writ.

And

And the same *W. S.* as before, saith, that the same *M.* at the time of the taking *&c.* was the wife of the same *E. S.* as he hath above alleadged; and of this he putteth himself upon the Countrey *&c.* And the same *W. I.* likewise theretore, as well to try that issue, as the same other issues above joyned, the Sheriff is commanded, that he cause to come here, xv. Pas. twelve *&c.*

Issue thereupon.

Hix. I. Rot. 2621. Leic. ss. *G. F.* was summoned to answer *H. H.* Kn. of a Plea, wherefore he took one horse of the same *H.* and him unjustly detained against Sureties and pledges, *&c.* And whereupon the same *H.* by *H. P.* his Attorney complaineth, that the same *G.* the 27. day of July Anno Rⁱ. 9. at *L.* in a certain place there called *L.* meadow, otherwile *A.* meadow, took a certain horse of the same *H. H.* and him unjustly detained against Sureties and pledges, until *&c.* Dam. 20*l.* and thereupon bringeth Suite, *&c.*

Count in Replevin.

And the same *G.* by *G. W.* his Attorney cometh, and defendeth the force and wrong, when *&c.* and well avoweth the taking of the horse aforesaid, in the same place in which *&c.* and justly *&c.* because he saith that the same place, wherein the taking of the horse aforesaid is supposed to be done, doth contain: and the same time of the taking of the horse aforesaid, supposed to be done, did contain in it self an hundred acres of Meadow, with the appurtenances in *L.* aforesaid; And that the same *G.* before the same time in which *&c.* and also the same time in which *&c.* was, and yet is leited of one mess. with the appurtenances in the Parish of St. *M.* in *L.* aforesaid, at the time in which *&c.* and also from the time whereof no memory is extant, being an ancient Messuage in his demesne as of Fee; And the same *G.* and all those whose estate the same *G.* now hath, and the same time in which *&c.* had in the same Mess. with the appurtenances, from the time whereof the memory of man is not to the contrary, had, and ought to have, for himself, his Farmers, and Tenants of the same Mess. with the appurtenances, common of pasture in the same hundred Acres of Meadow, with the appurtenances, in which *&c.* for two horses upon the Messuage aforesaid, with the appurtenances Levant and Couchant, every year after the grasse, in the same hundred Acres of Meadow, with the appurtenances, should be cut and cocked, to tether the same horses in the same hundred Acres of Meadow, with the appurtenances, nor hurting the same grasse, so mowen, and cocked. And after the grasse thereof coming, should be carried away; then the same *G.* and all those whose estate the same *G.* now hath, and the same time in which *&c.* had in the Messuage aforesaid, with the appurtenances, from the time whereof the memory of man is not to the contrary, have had; and were accustomed to have, for himself, his Farmers, and Tenants of the same messuage, with the appurtenances, Common of pasture in the same hundred Acres of Meadow, with the appurtenances, in which *&c.* as well for the same two horses, as for two beasts, and a follower upon the same Mess. levant and couchant, every year after the hay, as aforesaid carried away, to go at at large until *Munday*, next after the Feast of our blessed Virgin *Mary* then next following as to the Mess. aforesaid, with the appurtenances appertaining. And because the same horse, the same time in which *&c.* was in the same hundred Acres of Meadow, with the appurtenances, in which *&c.* after the grasse was cut, and cocked, in the same eating the grasse then growing; And doing damage there, the same *G.* in his own right, as a Commoner there, the same time in which *&c.* as aforesaid being, well avoweth the taking of the horse aforesaid in the same place, in which *&c.* and justly *&c.* so doing damage there, *&c.*

The Commoner avowes damage felonant.

Spec. prescription for Common appurtenances.

He avoweth the taking as Commoner.

The Plaintiff saith, that he was seised in Fee of five Acres parcels of the 100 Acres of the Land in which &c. and that he put in his Cattle, & traverseth the prescription.

And the same *H.* saith, that the same *G.* for the reason before alledged, the taking of the horse aforesaid, in the same place, in which &c. justly ought not to avow, because he saith, that the same *H.* before the same time of the taking &c. And also the same time of the taking &c. was seised of five Acres of Meadow, with the appurtenances, parcel of the same hundred Acres of Meadow, called *L. Meadow*, otherwise the *A. Meadow*, with the appurtenances, in which &c. in his demesne as of Fee. And being so thereof seised, the same *H.* before the same time of taking &c. put the horse aforesaid, into the same five Acres of Meadow, with the appurtenances, to eat the grasse then there growing, until the same *G.* at *L.* aforesaid, in the same place called *L. Meadow*, otherwise the *A. Meadow*, took the same horse of the same *G.* and him unjustly detained, against Sureties and pledges, until &c. As now above against him he complaineth, without that that the same *G.* and all those whose estate the same *G.* now hath, and the same time of the taking &c. had in the Mess. aforesaid, with the appurtenances, from the time whereof the memory of man is not to the contrary, had and were accustomed to have for himself, his Farmers, and Tenants of the same Mess. with the appurtenances, Common of pasture, in the same hundred Acres of Meadow, with the appurtenances, in which &c. for two horses, upon the Mess. aforesaid, with the appurtenances, levant and couchant, every year afterwards the same grasse in the same hundred Acres of Meadow, with the appurtenances, should be cut, and cocked, to tether the same horses in the same hundred Acres of Meadow, with the appurtenances, nor hurting the same grasse so cut, and cocked: And after the hay coming thereof, should be carried away, then Common of pasture in the same hundred Acres of Meadow, with the appurtenances, in which &c. as well for the same two horses, as for two beasts and a follower, upon the Mess. aforesaid, with the appurtenances, levant and couchant, every year after the hay, as aforesaid, carried away, to go at large until *Munday*, next after the Feast of the *Annunciation* of the blessed Virgin *Mary*, then next following, as unto the Mess. aforesaid, with the appurtenances belonging, as the same *G.* hath above alledged, and this he is ready to verifie; whereupon for that the same *G.* the taking of the horse aforesaid, above acknowledgeth, the same *H.* prayeth judgment, and his damages, by occasion of the taking, and unjust detaining of the horses aforesaid, to him to be adjudged &c.

Replication and issue upon the travers.

And the same *G.* as before, saith, that he; and all those whose estate the same *G.* now hath, and the same time in which &c. had in the Mess. aforesaid, with the appurtenances, from the time whereof, the memory of man is not to the contrary, had and were accustomed to have, for himself, his Farmers, and Tenants of the same Mess. with the appurtenances, Common of pasture, in the same hundred Acres of Meadow, with the appurtenances, in which &c. levant, and couchant every year, after the grasse in the same hundred Acres of Meadow, should be cut, and cocked, to tether the same horses, in the same hundred Acres of Meadow, with the appurtenances: nor hurting the grasse aforesaid, cut and cocked. And after the hay, there hence coming, should be carried away, then Common of pasture, in the same hundred Acres of Meadow, with the appurtenances, in which &c. as well for the same two horses, as for two beasts and a follower, upon the same Mess. with the appurtenances, levant, and couchant every year, after the said hay is, as aforesaid, carried away, to go at large until *Munday*, next after the Feast of the *Annunciation* of the blessed Virgin *Mary* then next following, unto the Mess. aforesaid, with the appurtenances belonging, as he hath above alledged: And of this he putteth himself upon the Country. And the same *H.* likewise therefore the Sheriff is commanded, that he cause to come here in *Oct. Pur. beata Maria* 12. &c.

H 8. *Ja. Rot. Surr. ff. E. G. Gent.* was summoned, to answer *R. S.* the elder, Clerk, of a Plea, wherefore he took the Cattle of the same *I.* and them unjustly detained against Pledges and Sureties, &c. and whereupon the same *I.* by *H. M.* his Attorney complaineth, that the same *E.* the 11th. day of June Anno Regis 8. at *E.* in a certain place called *S.* took the Cattle, to wit, five Cowes of the same *I.* and them unjustly detained, against Sureties and Pledges, until &c. dammage 40 pounds, And thereof bringeth Suite, &c.

And the same *E.* by *R. H.* his Attorney cometh, and defendeth the force and wrong, when &c. And as Bailiff of *I. M.* gent. well acknowledgeth the taking of the Cattle aforesaid, in the same place in which &c. And justly &c. because he saith, that the same place, in which the taking of the Cattle aforesaid, is supposed to be done doth contain, and at the same time of the taking of the Cattle aforesaid supposed to be done, did contain in it self four Acres of pasture, with the appurtenances in *E.* aforesaid, of which said 4 Acres of pasture, with the appurtenances, long before the said time in which &c. one *W. W.* Knight, was seised amongst other things in his demeasne, as of Fee; And the same four Acres of pasture, with the appurtenances, held of the Lord *P.* and the Lady *M.* late *K.* and *Q.* of *England*, as of their Honour of *W.* in the County of *B.* in free soccage, to wit, by fealty only for all services; And the same *W.* so being thereof seised, levied a certain fine in the Court of the same *P.* and *M.* late King and Queen of *England* here, to wit, at *Westminster*, in the County of *Middlesex*, à die Pas, &c. in the years of the Reign &c. 2d. and 3d. before *R. B. H. S.* and *W. S.* then Justices of the said late King and Queen, &c. between *I. P.* and *R.* his wife Plaintiffs, and the same *W. W.* and *Elizabeth* his wife desorceants by the names of the Mannor of *I.* with the appurtenances, and 10 Mess. 10 tofts, 6 cott. 100 Acres of Land, 100 Acres of Meadow, 500 Acres of pasture, 100 Acres of Wood, 300 Acres of Furze and Heath, 40 Acres of Moor, and 40 *ls.* Rent, with the appurtenances in *E.* aforesaid, *I. F. W.* and *S.* whereof a Plea of Covenant, was summoned between them in the same Court, to wit, that the same *VV.* and *E.* acknowledged the same Mannor and Tenements, with the appurtenances, to be the right of the same *I.* as those which the same *I.* and *Rose* then had, of the gift of the same *VV.* and *E.* And the same remised and quit claimed, of the same *VV.* and *E.* and the heirs of the same *VV.* to the same *I.* and *R.* and the heirs of the same *I.* the Mannor, and Tenements aforesaid, with the appurtenances, against all men for ever. And for that acknowledgment, remise, quit claim, warrant, fine, and concord; the same *I.* and *R.* granted to the same *VV.* and *E.* a certain yearly Rent, or Annuity, of ten pounds, issuing out of, and from the Mannor aforesaid, with the appurtenances; and the same to them rendred in the same Court, to have, and receive the same Annuity or yearly Rent of ten pounds, to the same *VV.* and *E.* and the Heirs of the same *VV.* at the Feast of *St. Michael the Arch-angel*, yearly to be paid. And if it shall happen, the said yearly Rent of ten pounds to be behind in part, or in whole at the same Feast, wherein as aforesaid, it ought to be paid, unpaid; That then it shall be very lawful for the same *VV.* and *E.* and the heirs of the same *VV.* into the Mannor and Tenements aforesaid, with the appurtenances, to enter and distrein, and the distresses so there taken, and had, lawfully to take, carry away, and chuse, and detain to himself, until the same annuity, or yearly Rent of ten pounds together, with the arrears thereof, if any be, shall be fully satisfied, and paid, as by the same Fine in the Court, of the Lord the King, now here upon Record remaining more fully appeareth. By vertue of which Fine, the same *VV.* and *E.* were seized of the yearly Rent aforesaid, to wit, the same *VV.* in his demeasne as of Fee: And the same *E.* in her demeasne, as of Free Tenement

A viewry by Cosen & Heir, for the arrears of Rent, Charge rendred by Fine in Fee.

Tenure of the Queen in soccage. Fine levied:

Concord.

General warrants.

Grant of a Rent charge to the Court.

Clause of distress.

Devise of the
Rent in Fee.

T. 6. Ja. Rot.
1512. in Re-
plevin issue is,
that N. at the
time of the
grant of the
annuity made,
was seised in
Fee of the
Mannor.

Rent arrear.

Bar, that the
place in which
is not parcel
of the Land
contained in
the Fine.

Replication
that the place
&c. is contain-
ed in the
Fine.

The Defend. makes confans,
as Bayliff to the Lord of the
Mannor, for an amerciamēt
arrear in Court Baron.

Tenement for term of her life. And the same *W.* and *E.* so thereof being seised, the same *VV.* afterwards, and before the same time, in which *&c.* to wit the second day of *January Ann 12. Eliz.* at *E.* aforesaid, made his last Will & Testament in writing, and by the same Will, amongst other things, gave, and bequeathed to the same *E.* then his wife, the same yearly Rent of ten pound, to have and receive, to the same *E.* and her heirs for ever; And afterwards, and before the said time, in which *&c.* at *E.* aforesaid dyed, of such his estate therein seised, after whose death, the same *E.* was seised of the same yearly Rent in her demesn as of Fee, by vertue of the legacy aforesaid; And being so thereof seised, the same *E.* afterwards, and before the same time in which *&c.* to wit, the tenth day of *April Anns 39. Eliz. Regin.* at *E.* aforesaid died, of such his estate thereof seised, after whose death the same yearly Rent descended to the same *I. M.* the son, as Cozen and Heir of the same *E.* whereby the same *I.* was, and yet is seised of the Annual Rent aforesaid, in his demesn as of Fee: And because 40*li.* of the Annual Rent aforesaid, for one whole year, ended at *Michael the Archangel, An. Regis Angl. 7. & Scoſie 44.* to the same *I.* the aforesaid time, in which *&c.* were in arrear, and not paid the same *E.* as Bailiff of the same *I.* for the same 10*li.* of the yearly Rent aforesaid to being in arrear, well acknowledgeth the taking of the Cattle aforesaid, in the said place, in which *&c.* And justly *&c.* as in Lands in form aforesaid, of the same *I.* charged and tied to distresse, *&c.*

And the same *Jo.* saith, that the same *E.* as Bailiff of the same *I.* for the reason before alleadged, the taking of the Cattle aforesaid, in the same place in which *&c.* justly ought not to acknowledge: because he saith, that the same four Acres of pasture, with the appurtenances in which *&c.* are not parcel of the Mannor, and Tenements aforesaid, in the Fine aforesaid contained. And so the same *I.* saith, that the same four Acres of pasture, with the appurtenances, in which *&c.* are not contained in the same Fine, as the same *E.* hath above alleadged. And this he is ready to verifie; whereupon for that the same *E.* as Bayliff of the same *Jo.* the taking of the Cattle aforesaid, in the same place in which *&c.* above acknowledgeh; the same *John* prayeth judgment, and his damages by occasion of the taking, and unjust detaining of the Cattle, aforesaid, to him to be adjudged, *&c.*

And the same *E.* as before saith, that the same four Acres of pasture, with the appurtenances, in which *&c.* are contained in the Fine aforesaid, as the same *E.* hath above alleadged. And of this he putteth himself upon the Country; And the same *Jo.* likewise, therefore the Sheriff is commanded, that he cause to come here in 8 *Par. 12. &c.*

H 5. Ja. Regis Rot. Leic. ss. *G. R.* was summoned, to answer *I. F.* of a Plea, wherefore he took the Cattle of the same *I.* and them unjustly detained, against Sureties and Pledges, *&c.* And whereupon the same *I.* by *I. F.* his Attorney complaineith, that the same *G.* the 14th day of *December, An. 45. Eliz. Regin.* at *C.* in a certain place called *F.* took the Cattle, to wit, two Heifers, of the same *I.* and them unjustly detained, against Sureties and Pledges until *&c.* whereupon *&c.* dam. 10*li.* *&c.*

And the same *G.* by *R. P.* his Attorney, cometh and defendeth the force and wrong, when *&c.* And as Bayliff of *VV. D. Knight*, well acknowledgeth the taking of the Cattle aforesaid, in the same place in which *&c.* and justly *&c.* because he saith, that the same place, wherein the taking of the Cattle aforesaid, is supposed to be done, is, and the time in which *&c.* was a certain yard, parcel of a certain Messuage, with the appurtenances, wherein the same *I. F.*

I. F. doth now dwell in the County aforesaid; And that before the same time in which &c. and also the same time in which &c. the same *VV.* was seised of the Mannor of *M.* with the appurtenances in the County aforesaid, and of three Mills, to wit, one Wind mill, one Water-mill, and one Horse-mill, with the appurtenances in *M. B.* aforesaid, parcel of the Mannor aforesaid, in his demeain, as of Fee: And that the same Messuage with the appurtenances whereof the same place in which &c. is parcel; and the same time in which &c. and also from the time whereof the memory of man is not to the contrary, was parcel of the same Mannor, within which said Mannor, is had, and from the time in which &c. and also from the time whereof the memory of man is not to the contrary, was had a certain ancient custome, to wit, that every housholder within the Mannor aforesaid, hath used, and been accustomed, and ought to grinde all, and every their grain, in the house of every such housholder, to be expendable and expended at the Mills of the same *VV.* in *M. B.* aforesaid, so long as such housholder shall have his grain there well, and at convenient times grinded. And also, that when any such housholder, shall cease to grind such his Corn at the same Mills, and shall grind such his Corn at other Mill, if such surceasing of grinding of such Corn at the Mills of the Lord aforesaid, shall be presented to the Court of the Baron of the Mannor aforesaid, by the homage of the Court of the same Mannor, then every such housholder within the Mannor aforesaid, in the same Court of the Mannor aforesaid, for every such default against the custome aforesaid, by the consideration of the same Court, shall be amerced, and that amercement by the Afforators of the same Court, by the same Court, being duly chosen, shall be afforated. And that the same *VV.* and all those whose estate the same *VV.* now hath, and the same time in which &c. had in the Mannor aforesaid, with the appurtenances, from the whole time whereof the memory of man is not to the contrary, have used, and were accustomed to distrein every such housholder, against the same custome as aforesaid offending; for every such amercement so to be afforated, & being in arrear unpaid, by any goods or chattles of every such holder within the Precincts of the Mannor aforesaid. And the same *G.* further saith, that the same *I. F.* the same time in which &c. and by ten years then before last past, was an housholder within the Precincts of the Mannor aforesaid; And that at the Court of the same *W.* held at the Mannor aforesaid the 14th. day of October, Anno 44. Eliz. Regn. by the then homage of that Court, to wit, by the Oath of *T. W.* and *N. B.* & 11 others, then and there, were charged, and sworn to enquire of the Articles concerning the Court Baron, it was presented, that the same *I. F.* had grinded all his Corn in his house, expended before the last Court then foregoing, at other Mills out of the same Mannor; whereupon, by the same Court, it was then and there considered, that the same *I. F.* should be thereof in mercy which said mercy or amercement by *T. W.* and *N. W.* then Afforators of the same Court, in the same Court chosen, & in due manner sworn then and there was afforated to six shillings, eight pence; And because the same six shillings, eight pence, for the same amercement so afforated, the same time in which &c. to the same *W.* were in arrear, and yet are unpaid; the same *G.* as Bailiff of the same *W.* well acknowledgeth the taking of the Cattle aforesaid, in the same place in which &c. And justly, &c. for the same six shillings, eight pence, for the amercement to the same *W.* in form aforesaid being in arrear not paid, as in parcel of the same Mannor, &c.

And the same *I.* saith, that the said *G.* as Bailiff of the same *W.* for the reason before, alleadged the taking of the Cattle aforesaid, in the same place in which &c. ought not justly to acknowledge, because protesting that there is not had, nor from the time whereof the memory of man is not to the

6 R

contrary

Customes of
the Mannor.

Custome to dis-
trein for such
ameracements,
being affixed,
&c.

Presentment
in Court Ba-
ron.

Amerciament
upon the pro-
sentment.

Amerciament
afforated.

Distreias in his
Mannor.

Bar. Protesta-
tion to the 1.
Custome. Pro-
testation to the
2. Custome.

contrary, was had within the Mannor of *M. B.* aforesaid, any such custome as the same *G.* hath above alledged, protesting also, that the same *W.* and all those whole estate the same *W.* now hath, and the same time of the taking &c. had in the Mannor aforesaid, with the appurtenances, from the whole time whereof the memory of man is not to the contrary, have not used, and were accustomed to distrein every such householder against the custome aforesaid, as aforesaid offending, for every such americiament to afforced, and being in arrear unpaid, by any goods, or Chartles of every such householder, within the Precincts of the Mannor aforesaid: Also protesting, that at the same Court of the same *W.* at his Mannor aforesaid, held at the same Mannor the 14th day of *October. Anno 44. Eliz.* aforesaid, by the same homage of the Court of the same Mannor, it was not presented that the same *I. F.* grinded all his Corn expended in his house, before the last Court then fore-going, at other Mills without the same Mannor, and not at the said Mills of the same *W.* within the Mannor aforesaid, to the damage and prejudice of the said Lord of the Mannor aforesaid, and against the Custome of the Mannor aforesaid, as the same *G.* hath above alledged. For Plea the same *I. F.* saith, that the same *G.* the same 14th day of *Decemb. Anno Regis. Eliz. 45.* aforesaid, at *O.* aforesaid, of his own wrong in the same place called *F.* took the two Heiffers, of the same *I. F.* and them unjustly detained against Sureties and Pledges, until &c. as he above against him complaineth, without that that the same Mess. with the appurtenances whereof &c. is, and at the same time of the taking &c. And also from the time whereof the memory of man is not to the contrary, was parcell of the same Mannor of *M. B.* aforesaid, as the same *G.* hath above alledged. And this he is ready to verifie, whereupon for that the same *G.* the taking of the Cattle aforesaid, in the same place in which &c. above acknowledgeth the same *I. F.* prayeth judgment, and his damages, by occasion of the taking, and unjust detaining of the Cattle aforesaid, to him to be adjudged &c.

Protestation
to the pre-
sentment.

For Plea de-
mura proper.

Issue upon the
traverse.

And the same *G.* as before saith, that the same Messuage with the appurtenances whereof &c. the same time in which &c. was parcel of the same Mannor of *M. B.* aforesaid, as he hath above alledged. And of this he putteth himself upon the Country. And the same *I.* likewise, and hereupon the same *I.* saith, that the same *W. M.* Esquire, is now Sheriff of the County aforesaid; And that he the same *I.* holdeth of the same *W. M.* now Sheriff, the same Messuage, with the appurtenances, and three Roods of Land with the Appurtenances in *O.* aforesaid, whereof &c. for term of divers years yet to come; And for that cause prayeth the Writ of the said Lord the King *de venire fac.* here 12 to the Coroners of the same Lord the King, in the County aforesaid, to be directed to try the issue aforesaid. And because the same *G.* this doth not gainsay, It is commanded to the Coroners of the County aforesaid, that they cause to come here, *Off. Pur.* 12 of the neighbourhood and Countrey of the Mannor of *M. R.* by whom &c. And who neither &c. to recognize &c. because as well &c.

Challenge of the Sher-
riff.

The Plaintiff saith, that
he is lesse for years of
the said Messuage, and
that the Sheriff demised
&c. and prayeth a *Ve
fac.* to the Coroners.

The *Ve fac.* awarded to
Coroners.

Count for taking of
Cattle, Goods, & Chat-
tles in Replevin.

H 8. *Ja. Rot. 1105. Nott. ff. A. B.* was summoned to answer *R. M.* Gent. of a Plea, wherefore he took the Cattle, Goods, and Chartles of the same *R.* and them unjustly detained, against Sureties and Pledges &c. And whereupon the same *R.* by *G. G.* his Attorney complaineth, that the same *A.* the third day

day of *S. Anno*, 7. *Reg. nunc.* at Little *M.* in a certain place called *Six-lands* in *R.* feild to the Cattle to witt two Oxen, two Naggs, and one Horse, and the Goods and Chattles to witt three paire of Cart Geires of the same *R.* and the same unjustly detained against iustices and pledges untill &c: whereupon he saith that he is the worle, and hath damage, to the value of 40. l And thereof he bringeth Suite, &c.

And the same *A.* by *R. G.* his Attorney cometh and defendeth the force and wrong when &c: And saith that he took the Cattle Goods and Chattels aforesaid at little *M.* in the County aforesaid in a certaine place called *G.* without that that he took the Cattle Goods and Chattles in a certaine place called *Six Lands* in *R.* feild, as the same *R.* by his declaration aforesaid above suppoeth, and this he is ready to verifie, whereupon he prayeth Judgment of the declaration aforesaid, and for to have returne of the Cattle, Goods and Chattles aforesaid, the same *A.* as Bailiffe of *G. M.* Gent. well acknowledgeth the taking of the Cattle, Goods and Chattles aforesaid in the same place called *G.* And justly, &c. because he saith that the same place called *G.* doth containe and at the time of the supposed taking of the Cattle, Goods, and Chattles aforesaid did containe in it selfe one Acre and an halfe of Land with the appurtenances in Little *M.* aforesaid, and that the same *R. M.* and *M.* his Wife before the same time in which &c: were seised of the Mannor of Little *M.* and *M.* with the appurtenances in the County aforesaid, whereof the same Acre and an halfe of Land with the appurtenances are and the same time in which &c: And also from the time whereof the memory of man is not to the contrary were parcell to witt the same *R.* in his demeaine as of fee, and the same *M.* in her demeaine as of free Tenement for terme of her life. And the same *R.* and *M.* being so thereof seised, levied a certaine fine in the Court of the Lady *Eliz.* late Queen of *England* in the Common Bench here to witt at *Westminster* in the County of *Midd.* in *Oct. Mich. Anno* 44. before *E. A.* &c: between *L. H.* gent. Plaintiffe, and the same *R.* and *M.* and *G. M.* by the names of *R. M.* Esq. and *M.* his Wife, and *G. M.* gent. deforceants of the Mannor aforesaid with the appurtenances whereof, &c: by the names of the Mannor of Little *M.* and *M.* with the appurtenances, whereof a plea of Covenant was then summoned thereof between them in the same Court to wit that the same *R.* and *M.* and *G.* acknowledged the Mannor aforesaid with the appurtenances to be the right of the same *I. L.* as the same which the said *I.* hath of the gift of the same *R.* and *M.* and *G.* and thore they have remised and quit claymed from the same *R.* and *M.* and *G.* and their heires, to the said *I. C.* and his heires for ever, and moreover the same *R.* and *M.* and *G.* have granted for themselves and the heirs of the same *R.* that they will warrant to the same *I.* and his heires the Mannor aforesaid with the appurtenances against all men for ever, and for that acknowledgment, receive quit claime fine and concord the same, *I.* granted to the same *G.* a certaine Annuity or yearly Rent of 33. l. 6. s. 8. d. of lawfull money of *England* issuing out of the Mannor aforesaid with the appurtenances, and the same he rendred unto him in the same Court to have and receive the Annuity or yearly rent of 33. l. 6. s. 8. d. to the same *G.* at the Feasts of *St. Mich.* the Archangell and the Annuntiation of the blessed *Virgin Mary*, by equall Portions yearly to be paid the whole lifetime of the same *G.* Alwaies provided that the

The Defendant pleads taking in another place and traverses the taking in the place in the Count, and makes Connasans as Bailiff to E. for arrearages of Rent, charges granted by fine.

Fine Levied.

The Annuity rendred to one of the Connasars for life.

Note no clause of disrese is specified.

Proviso, that the grant extends only to charge the Lands, and not the person.

The Lands rendred to an other Conusor to pay the Annuity.

Seign of the Grantee of the Rent.

Conusors of the Rent arrears.

Averment of the life of the Grantee.

Issue that the Defendant took the Cattle in the place in the Count.

same grant of the same Annuity, or yearly Rent of 33*li.* 6*s.* 8*d.* shall in nothing extend it self, to charge the person of the same *I* and his Heirs, but only to charge the Mannor aforesaid with the appurtenances, the whole life time of the same *G.* And the same *I.* likewise granted to the same *R.* and *M.* the same Mannor, with the appurtenances, And the same to them rendered, To have and to hold to the said *R.* and *M.* and the Heirs of the same *R.* of the chief Lords of the Fee by services, which appertain to the said Mannor, as by the same Fine in the Court here remaining upon Record, amongst other things more fully appeareth, with this that the same *A.* will verifie, that the same *I. L.* conveyed the Mannor aforesaid, with the appurtenances, by the same Fine to the said *R.* and *M.* and the heirs of the same *R.* with this intention that the same *R.* and *M.* and the heirs of the same *R.* should yearly pay the same Annuity, or yearly Rent of 33*li.* 6*s.* 8*d.* to the same *G.* during the whole life of the same *G.* according to the intention, & levying of the same Fine of the Rent aforesaid declared; By pretext whereof, & force of a certain Statute in the Par. of the Lord *H.* late King of England 8. 4. Feb. Anno 27, for transferring uses into possession held, made, the same *G.* was and yet is seised of the same Annual Rent of 33*li.* 6*s.* 8*d.* as of his free Tenement for term of his life; And the same *R.* and *M.* were, and yet are seised, of the mannor aforesaid, with the appurtenances whereof, &c. with the same Annuity or Annual Rent of 33*li.* 6*s.* 8*d.* in form aforesaid charged, to wit, the same *R.* in his demeasne, as of Fee, and the same *M.* in her demeasne, as of free Tenement, for term of her life, by vertue of the Fine aforesaid. And because sixteen pound, thirteen shillings four pence of the Rent aforesaid for half of one year ended at the Feast of the Annunciation, &c. Anno Regis 2*d.* to the same *G.* the same time in which &c. were in arrear, and not paid the same *A.* as Bailiff of the said *G.* for the same sixteen pound, thirteen shillings and four pence of the Rent so being in arrear, well acknowledgeth the taking of the Cattle, Goods, and Chattles aforesaid, in the same place called *G.* as in Lands tied and charged to the distresse of the same *G.* with this, that the same *A.* will verifie that the same *G.* is yet alive, and in full life, to wit, at little *M.* aforesaid, &c.

And the same *R.* saith, that the Declaration aforesaid, for the reason before alleadged, ought not to be quashed, because as before he saith, that the same *A.* took the Cattle, Goods, and Chattles aforesaid, at little *M.* in the same place called six Lands in *R.* aforesaid, as the same *R.* above against him doth complain, And this he prayeth may be enquired of, by the Country, And the same *A.* likewise. Therefore the Sheriff is commanded, that he cause to come here in Octab. Pur. beate Maria 12. &c.

H 5. *1a. Rot.* 404. s. *Brownlow Devon.* fl. *T. P.* Esquire and *H. S.* were summoned to answer *VV. M.* for taking of two Heifers, the 6th. *May, Anno 4. 1a.* at *K.* in a place called *S.* and great *B.* to the damage 20 l. And thereupon brings suit, and the same *T.* and *H.* defend the force, &c. and the same *T.* as executor of the Testament of *H. P.* Esq. well avoweth and the same *H.* as Bayliffe of the same *T.* well acknowledgeth the taking of the cattle aforesaid in the same place in which, &c. and justly, &c. because he saith that the same place in which the taking of the cattle aforesaid is supposed to be done, doth contain, and at the same time of the taking of the cattle aforesaid supposed to be done, did contain in it self 5. Acres of Pasture with the appurtenances in *K.* aforesaid, and that long before the same time in which, &c. one *W. S.* was seised of one Mes. and 20. Acres of Pasture with the appurtenances in *K.* aforesaid whereof the same place in which, &c. is, and the same time in which, &c. and also from the time whereof the memory of man is not to the contrary, was parcelled in his demesne as of fee, and those tenements with the appurtenances whereof, &c. held of the same *H. P.* in his life time, as of his Mannor of *I.* with the appurtenances in the Countrey aforesaid, by homage fealty and by rent of 15 s. 4 d. every year at the Feast of St. Michael the Arch Angel yearly to be paid, and also by doing service at the Court of the said *H.* at his Mannor aforesaid, from three weeks in three weeks yearly to be held of which said services the same *H.* was seised by the hands of *W. S.* as by the hands of the true tenant, to witt, of homage fealty and suite of Court aforesaid as of fee and writt, and of the rent aforesaid in his demesne as of fee, of which said Mannor with the appurtenances the same *H.* in his life time was seised in his demesne as of fee, and the same *H.* so being thereof seised, and the same *W. S.* of the tenements aforesaid with the appurtenances whereof, &c. in form aforesaid being seised the same *W.* before the same time in which, &c. at *J.* aforesaid died of such his estate therein seised in Homage of the same *H.* after whose death the tenements aforesaid with the appurtenances whereof, &c. descended to one *I.* then the wife of the same *T. S. Mary* then wife of *I. N. Ann* then wife of *R. S. M. S. M. S.* and *W. S.* as Daughters and Co-heirs of the same *W. S.* by which the same *T. S. I. I. N. Ma. Ro. S. Anne R. M.* and *W.* before the same time in which, &c. into the tenements aforesaid with the appurtenances whereof, &c. entered and were thereof seised in their demesne as of Fee, to witt, the same *T.* and *I.* in the right of the same *I. John* and *Ma.* in the right of the same *Ma. Ro.* and *A.* in the right of the same *A.* and the same *R. M.* and *VV.* in their own rights, and the same *T. I. Io. Ma. R. A. R. M.* and *W.* being so thereof seised; and the same *Hugh* of the Mannor aforesaid with the appurtenances in forme aforesaid being seised; the same *H.* afterwards and before the same time in which, &c. to witt the sixth day of *Novemb. Anno 44. Eliz.* at *K.* aforesaid made his will in writing and the same *T. P.* his executor of his Testament aforesaid made and ordeined and afterwards and before the same time in which, &c. to witt, the twentieth day of *January Anno Eliz.* 45. at *K.* aforesaid died of the Mannor aforesaid with the appurtenances in form aforesaid, seised; after whose death & before the same time in which, &c. the same *P. T.* the burthen of the execution of the Testament aforesaid, took upon himself, and the same Testament according to the ecclesiasticall Lawes of this Realm of England proved and Executor of the said Testament the same time in which, &c. & alwayes after the death of the same *H.* hitherto was and yet is, and because 6 l. 13 s. 4 d. for the rent aforesaid for ten whole years ended at the Feast of St. Michael the Arch Angel *Anno 44. Eliz.* to the same *H. P.* in his life time after the

Avowry made by the executors for rent-service due to the testator upon the St. of 32. H. 8. Cap. 37. Rastalls Leets 339. D. P. 4. Eliz. Rot. 2445. H. 17. Jac. Rot. 3025. s. Brownlow for arrearages of rent-service. T. 6. Ja. Rot. 513. avowry made by the Administrator, for arrearages of rent reserved upon sale of Mannor nomine finis.

Proviso, that the grant extends only to charge the Lands, and not the person.

The Lands rendred to an other Conusor to pay the Annuity.

Seign of the Grantee of the Rent.

Connusans of the Rent arrears.

Averment of the life of the Grantee.

Issue that the Defendant took the Cattle in the place in the Count.

same grant of the same Annuity, or yearly Rent of 33*li.* 6*s.* 8*d.* shall in nothing extend it self, to charge the person of the same *I* and his Heirs, but only to charge the Mannor aforesaid with the appurtenances, the whole life time of the same *G.* And the same *I.* likewise granted to the same *R.* and *M.* the same Mannor, with the appurtenances, And the same to them rendred, To have and to hold to the said *R.* and *M.* and the Heirs of the same *R.* of the chief Lords of the Fee by services, which appertain to the said Mannor, as by the same Fine in the Court here remaining upon Record, amongst other things more fully appeareth, with this that the same *A.* will verifie, that the same *I.* *L.* conveyed the Mannor aforesaid, with the appurtenances, by the same Fine to the said *R.* and *M.* and the heirs of the same *R.* with this intention that the same *R.* and *M.* and the heirs of the same *R.* should yearly pay the same Annuity, or yearly Rent of 33*li.* 6*s.* 8*d.* to the same *G.* during the whole life of the same *G.* according to the intention, & levying of the same Fine of the Rent aforesaid declared; By pretext whereof, & force of a certain Statute in the *Par.* of the Lord *H.* late King of England 8. 4. Feb. Anno 27, for transferring uses into possession held, made, the same *G.* was and yet is seiled of the same Annual Rent of 33*li.* 6*s.* 8*d.* as of his free Tenement for term of his life; And the same *R.* and *M.* were, and yet are seiled, of the mannor aforesaid, with the appurtenances whereof, &c. with the same Annuity or Annual Rent of 33*li.* 6*s.* 8*d.* in form aforesaid charged, to wit, the same *R.* in his demeasne, as of Fee, and the same *M.* in her demeasne, as of free Tenement, for term of her life, by vertue of the Fine aforesaid. And because sixteen pound, thirteen shillings four pence of the Rent aforesaid for half of one year ended at the Feast of the Annunciation, &c. Anno Regis 2*d.* to the same *G.* the same time in which &c. were in arrear, and not paid the same *A.* as Bailiff of the said *G.* for the same sixteen pound, thirteen shillings and four pence of the Rent so being in arrear, well acknowledgeth the taking of the Cattle, Goods, and Chattles aforesaid, in the same place called *G.* as in Lands tied and charged to the distresse of the same *G.* with this, that the same *A.* will verifie that the same *G.* is yet alive, and in full life, to wit, at little *M.* aforesaid, &c.

And the same *R.* saith, that the Declaration aforesaid, for the reason before alleadged, ought not to be quashed, because as before he saith, that the same *A.* took the Cattle, Goods, and Chattles aforesaid, at little *M.* in the same place called six Lands in *R.* aforesaid, as the same *R.* above against him doth complain, And this he prayeth may be enquired of, by the Country, And the same *A.* likewise. Therefore the Sheriff is commanded, that he cause to come here in Octab. Pur. beate Maria 12. &c.

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Avowry made by the executors for rent-service due to the testator upon the St. of 32. H. 8. Cap. 37. Rastalls Leets 339. D. P. 4. Eliz. Rot. 2445. H. 17. Jac. Rot. 3025. s. Brownlow for arrearages of rent-service. T. 6. Ja. Rot. 513. avowry made by the Administrator, for arrearages of rent reserved upon sale of Mannor *nominis finis.*

death of the same *W. S.* and unto the same *T.* after the death of the same *S.* *H.* at the same time, in which, &c. were in arreare unpaid the same *T.* as executor of the Testament of the same *H.* the Father well avoweth, and the same *H. S.* as Bailiff of the same *T. P.* well acknowledgeth the taking of the cattle aforesaid in the same place in which, &c. as in parcell of the tenements aforesaid with the appurtenances of the same *H. P.* in form aforesaid held for the same by *1 L. 13. s. 4. d.* of the Rent aforesaid so as aforesaid being in arreare, and justly, &c. according to the forme of the Statute in this case made and provided, and they shew the Letters Testamentary, &c.

TR. 41. *Eliz. Rot. 3112. s. Brownlow ff. Red. ff.* between *D.* and *S.* in *Replevin*, and whereupon the same *W.* by *L. D.* his Attorney complayneth that the same *I.* the 17. day of *April Anno Eliz. 41.* at *L. B.* in a certain place there called the Street took the same Cow of the same *W.* and her unjustly detained against sureties and pledges untill, &c. hereupon, &c.

Makes Con-
fians as Bailey
of the Gran-
tees of the
Lesse of a
Mannor to
which a Mar-
ket apper-
tains for toll
for Cattle sold
in the same
Market to be
received of
the Vendees
by prescripti-
on for refu-
sal to pay
toll, &c.
T. 10. J. Rot.
20. 3. Avow-
ry for toll.

T. 8. H. 8. Rot.
342. see farther
of the King
prescribes to
have toll in a
Market, &c.
And prayeth
aid of the
King.

T. 40. Eliz.
Rot. 235.
Market ap-
pend to the
Mannor by
prescription
for the Lord
of the mannor
to have toll
to wit, 2 s. for
every Cow
fold in the
Market.

T. 39. & 40.
Eliz. Rot.
2143.

T. 41. Eliz. Rot.
104.

T. 19. Ja. Rot.
203. H. 3.
Ja. Rot. 313.

And the same *I.* by *T. W.* his Attorney cometh, &c. and as Bailiff of the same *C. H.* Esq. well acknowledgeth the taking of the Cow aforesaid in the same place in which, &c. and justly, &c. because he saith that the same place in which the taking of the Cow aforesaid is, and at the time of the taking aforesaid above supposed to be done, and also from the time whereof the memory of man is not to the contrary, was in the Common Street within the Town of *L. B.* aforesaid, and that long before the same time in which, &c. and also the same time in which, &c. the Dean and Cannons within the Kings free Chappell of the same *G.* within his Castle of *Windsor* in the County of *B.* were seised of the Mannor of *L. B.* with the appurtenances in the County of *L. B.* whereof the same place in which &c. is and the same time in which, &c. and also from the time whereof the memory of man is not to the contrary, was parcell in his demesne as of fee, in the right of his Chappell aforesaid, unto which said Mannor a certain Common Market at *L. B.* aforesaid every *Thursday* in every week belongeth to be held, and at the same time in which, &c. And also from the time whereof the memory of man is not to the contrary belonged, And the same *I.* further saith that the same Deane and Cannons and their predecessors, and Farmers of the Mannor aforesaid with the appurtenances for the time being by the whole time aforesaid amongst other things had and received, and to have and receive were accustomed of every buyer of any Cow, or any Cowes 2 s. of Lawfull money of England for toll for every Cow sold in the Market aforesaid every Market day, And the same *J.* further saith that by the whole time aforesaid in *L. B.* aforesaid it was used that if any person or persons be or being buyer or buyers of any Cow or Cowes in the Market aforesaid shall refuse or should refuse to pay 2 s. for Toll of such Cow so bought, that then the same Deane and Cannons and all their predecessors by themselves and the farmers of the Mannor aforesaid for the time being, or by their Servants Deputies or Bailiffes the same Cow so bought in the name of a distress for the same 2 s. for toll for the same Cow, so there found, were accustomed to distress and the same to take in the name of a distress and to carry away and keep her with them untill the toll for the same Cow so brought should be paid.

And the same *I.* further saith that the same Deane and Cannons of the same Mannor with the appurtenances whereof, &c. unto which, &c. in form aforesaid being seised before the same time in which, &c. to wit, the tenth day of *Jan. Anno Eliz. Rne. 8.* by his certain Indenture made at *W.* aforesaid in the Capitall Houle of the same Deane and Chapter there, whose other part with the common Seale of the same Deane and Cannons sealed the same *J.* here in Court bringeth whose date is the same day and yeare, by their common assent and consent demised the Mannor aforesaid

with

with the appurtenances whereof, &c : unto which, &c : to *F. G. B.* and *I.* to have and occupy to the same *F. G.* and *I.* their executors and assignes from the Feast of *St. Michael* the Arch-Angell then last past unto the end and terme of 99. yeares from thence next following, and fully to be compleat and ended. By vertue of which demise the same *F. G.* and *I. B.* into the Mannor aforesaid, with the appurtenances whereof, &c : unto which &c : entred and were thereof possessed, and being so thereof possessed the same *F. G.* and *I.* before the same time in which, &c : to witt the 20th. day of *January*, Anno, *Eliz.* 18. abovesaid at *L. B.* aforesaid granted to one *R. H.* Knight, his whole Estate, Right, Title, Interest, and terme of yeares, which they then had to come of and in the Mannor aforesaid with the appurtenances, by vertue of which grant, the same *R.* into the Mannor aforesaid with the appurtenances whereof, &c : And unto which, &c : entred and was thereof possessed, and being so thereof possessed the same *R.* before the same time, in which &c : to witt the 8th. day of *Jan.* Anno 18. abovesaid at *L. B.* granted to the same *F. B.* his whole Estate, Right, Title, Interest and terme of yeares, which he then had to come of and in one moyety of the Mannor aforesaid, with the appurtenances whereof, &c : And unto which, &c : And the whole interest and terme of yeares then to come of and in the other moyety of the Mannor aforesaid, with the appurtenances whereof, &c : And unto which, &c : to the same *G. B.* and *I. B.* by vertue of which grant the same *F. G.* and *I. B.* into the Mannor aforesaid, with the appurtenances whereof, &c : And unto which, &c : entred and were thereof possessed in common and undivided, and so thereof being possessed, the same *I. B.* afterwards and before the same time in which, &c : to witt the 29th. day of *May*, Anno *Regina.* 19. at *L. B.* aforesaid by his certain writing indented, which the same *I. S.* with the Seale of the same *I. B.* signed here in Court bringeth, whose date is the same day and yeare remited, released, and quit claymed to the same *G. B.* his whole Right, Title, Interest, and demand then to come of and in the Mannor aforesaid with the appurtenances whereof, &c : And unto which, &c. By vertue whereof the same *G. B.* and *F. B.* were of the Mannor aforesaid, with the appurtenances whereof, &c. And unto which, &c : possessed in common and undivided, and being so thereof possessed, the same *F.* afterwards, and before the same time, in which, &c : to witt the 10. day of *August*, Anno 23. *Eliz.* at *L.* in the Parish of, &c : in the Ward of Cheape, made his Testament and certaine *A. B.* then his Wife and *B. B.* his Son, executors of his said Testament, made and ordained, and afterwards there died, so thereof as aforesaid possessed; after whose death the same *A.* and *B.* taking upon them the burthen of the execution of the Testament aforesaid into the Mannor aforesaid with the appurtenances unto which, &c : entred and were thereof as Executors of the Testament aforesaid possessed in common and undivided with the same *G. B.* And being so thereof possessed, the same *A.* and *B.* afterwards and before the same time, in which &c : to witt the 30. day of *January*, Anno, &c : 23. at *L. B.* aforesaid granted to the same *C. H.* his whole Right, Title, Interest and terme of yeares, which they had then to come of and in the Mannor aforesaid with the appurtenances whereof, &c : And unto which, &c ; by vertue of which grant the same *C.* into the Mannor aforesaid, with the appurtenances unto which, &c : entred and was thereof possessed in common, and undivided with the same *G. B.* for and during the residue of the terme then to come, and so being thereof possessed the same *G. B.* afterwards, and before the same time in which, &c : to witt the 23. day of *March*, Anno 25. *Eliz.* at *L. B.* aforesaid granted to the same *C. H.* his whole State, Right, Title, Interest and terme of yeares which he then had to come, of and in the Mannor aforesaid, with the appurtenances whereof, &c : And unto which, &c : By vertue of which grant the same *C.* was of the Mannor

Justifies the
taking for
toll in arreare.

aforesaid with the appurtenances whereof, &c: and unto which, &c: alone possessed, and he being so thereof possessed the same *W. D.* before the same time in which, &c: to wit upon Tuesday, the same 7. day of *Apr. Anno 41.* abovesaid at the Town of *L. B.* aforesaid in the full Market there, bought of a certaine person to the same *I. S.* unknown, one Cow. And the same *I. S.* further saith that he at the same time of the buying of the Cow aforesaid, & the same time in which &c: after the buying of the same Cow to wit upon Tuesday the 17. day of *Apr. Anno 41.* abovesaid at the same Town of *L. B.* aforesaid, in the street aforesaid, and in the Market aforesaid, and by the command, and in the right of the same *C.* requested the same *W. D.* to pay to the same *C.* 2. s. for toll of the same Cow, to the same *C.* the same time, &c: were in arreare unpaid, the same *I. S.* as Bailiffe of the same *C.* well acknowledgeth the taking of the Cow aforesaid, in the same place, in which, &c: And justly, &c: for the same toll not paid to the same *C.* &c.

WILLIAMS.

Bare de nuncia
propria, he
took the Cow.
And traverseth
the prescription
for the toll.

And the same *W.* saith that the same *John* as Bailiffe of the same *C.* for the reason before alleadged, the taking of the Cow aforesaid, in the same place, in which &c: ought not justly to acknowledge, because protesting that he knows not any thing in the same Cognisans of the same *I. S.* above alleadged to be true, for plea saith that the same *I.* the day and year abovesaid, in the Declaration aforesaid, above specified of his own wrong at *L. B.* in the aforesaid place, &c: took the same Cow of the same *W.* and her unjustly detained against sureties and pledges untill, &c: As he above against him doth complaine, without that that the same Deane and Cannons, and their Predecessors and Farmers of the same Mannor, with the appurtenances for the time being, by the time aforesaid, had and received, and were accustomed to have and receive of every buyer of any Cow, or of any Cows, 2. s. of lawfull money of England, for toll of every Cow sold in the Market aforesaid, every Market day, as the same *John* above hath alleadged, and this he is ready to verifie, whereupon for that the same *I.* the taking of the Cow aforesaid in the same place, in which, &c: above acknowledgeth the same *W.* prayeth Judgment and his damages, by occasion of the taking and unjust detayning of the same Cow, to be adjudged him, &c.

Replication
and Issue upon
the same tra-
verse,

And the same *I.* as before saith that the same Deane and Cannons, and their Predecessors and Farmers of the Mannor aforesaid for the time being, by the whole time aforesaid had and received, and were accustomed to have and receive of every buyer of any Cow or Cowes 2. s. of lawfull money of England, for the toll of every Cow sold in the same Market every Market-day, as he hath above alleadged, and of this he putteth himselfe upon the Country, and the same *W.* likewise. Therefore the Sheriffe is commanded that he cause to come here *tres Trin. Xij.* &c.

ED. HERON.

In Avowry for
arrearages of
rentcharge, the
Plaintiffe saith
that before the
same grant
one *I. S.* was
seised, &c: and
afterwards a
Judgment in
debt was had
against him
and the Lands
extended and
delivered to
the Recoverer
by Elegit, who
licensed the
Plaintiffe to
put in his Car-
tles.

H. 4. *Ja. Rot.* 1204. *Brownlow, Rotel. ff. A. B.* brings his second deliv-
erance against *T. W.* for taking of 40. sheep at *H.* in a place there called
the *C. close*, and the Defendant avoweth for Rent, charge in arreare, and the
Plaintiff saith that the same *T.* for the reason before alleadged the taking of the
Cattle aforesaid, ought not justly to avow, &c: because he saith that well
and true it is, that the same *I. F.* was seised of the same Mannor of *L. H.*
with the appurtenances, and of the same 20. Acres of Meadow, and 100.
Acres of Pasture with the appurtenances in *L. H.* aforesaid whereof, &c: in
his demeasne as of fee, as the same *T.* hath above alleadged, but the same
A. further saith that long before the grant of the yearly Rent above suppo-
sed

sed to be done, one *I. A.* Gent. by *H. I.* then his Attorney at another time to writ upon Saturday, next after the morrow of the Ascension in Easter-terme Anno 30. Eliz. Rna. came here into the Court of the Lady the Queen assigned to hold pleas before the said Lady the Queen; at *Westminster* in the County of *Midd.* then being, and then and there brought into the same Court of the same late Queen, his certain bill against the same *I. F.* in the custody of the Marshall, &c: in a plea of debt, and there were pledges to prosecute, to writ *I. D.* and *R. R.* which said bill followeth in these words *Lincoln. ss. I. A.* Gent. complaineth of *I. F.* Esq. otherwise called, &c: in the custody of the Marshall of the Marshallsey of the Lady the Queen, before the same Queen being of a plea that he render unto him 200*l.* of lawfull money of England, which to him he oweth and unjustly detaineth, for that to writ, that whereas the same *I. F.* the 4th day of *May*, Anno Eliz. 28. at *G.* in the County aforesaid, by his certain writing obligatory, with the Seal of the same *W. P.* Sealed, and to the Court of the said Lady the Queen here shewen, whose date is the same day and yeare above-said, acknowledged himselfe to be held, and firmly bound to the same *J. A.* in the same 200*l.* to be paid to the same *J. A.* when he should be thereof requested, nevertheless, the same *I. F.* although often requested the same 200*l.* to the same *I. A.* hath not paid, but the same to him to pay hath gain-sayed, and yet dorth gain-say to the damage of the same *I. A.* of 100*l.* And thereof brought suite, &c: At which said Saturday next after the said morrow of the Ascension of our Lord, before the late Queen at *Westminster* aforesaid, then came the same *I. F.* by *S. P.* his Attorney, and the same *I.* then defended the force and wrong when, &c: And then said that he could not gainsay the action of the same *I. A.* aforesaid, nor but that he ought to the same *I. A.* the said 200*l.* in forme as the said *I. A.* then above against him complained, therefore it was then considered by the same Court, that the same *I. A.* should recover against the same *I. F.* his debt aforesaid, and also 10*s.* for his damages which he susteyned, as well by occasion of deteyning of that debt, as for his costs and charges, by him about his suite in this behalfe, laid out to the same *I. A.* by the same Court of the said Lady the Queen, here then by his assent adjudged, and that the same *I. F.* should be then in Mercy, &c: And afterwards to writ the 29. day of *June* Anno Eliz. Regin. 28. before the same Lady the Queen at *Westminster* aforesaid, came as well the same *I. A.* in his proper person, And chose to be delivered to him all the Goods and Chattles which were of the same *I. F.* besides his Oxen and Cattle belonging to his Plough, and also the moyety of all the Lands and Tenements of the same *I. F.* in the County of *R.* by a reasonable price, and extent to hold to him & his assignes untill the same 200*l.* and 10*s.* of the debt and damages aforesaid, should be fully levied, therefore it was then commanded to the then Sheriffe of *R.* that all the Goods and Chattells which were of the same *I. F.* in his *Bailiwick* besides his Oxen and Cattle of his Plough, and also the Moyety of all his Land and Tenements in his *Bailiwick*, which were of the same *I. F.* the 20. day of *May*, Anno 30. above-said, which day Judgment was given therein, he cause to be levied by a reasonable price and extent to the same *I. A.* to hold to him and his assigns according to the forme of the statute, &c: untill the same 100*l.* 10*s.* parcell of the debt and damages aforesaid be fully levied, and in as much as that precept shall be executed, the same then Sheriffe make to appeare to the said late Queen at *Westminster* aforesaid, upon Saturday next, after *Crin. Animarum* the writt of the said Lady the Queen then At which day before the Lady the Queen at *Westminster* aforesaid, then came the same *I. A.* in his proper person, and then the Sheriffe of the County of *R.* to writ *A. N.* Knight, before the same late Queen at *Westminster* aforesaid

Count. in debt upon obligation in the Kings Bench.

Confession of the debt by nil dic.

Judgment.

H. 12. f. 1. Rot. 609. Avowry for Rent arreare by the Tenant by Elegit. T. 13. f. 1. Rot. 2550. the Plaintiff prayeth the execution to writ an Elegit upon Record. Elegit awarded. Elegit returned.

Remittens.

Inquisition taken.

Delivery of
halfe the Land
and Goods.

Tenant by the
Eligir disseised
by an Estran-
ger.

The disseisor
charges the
Lands with
Rent-charge.

The Plaintiffe
had liberty to
put in his
Cattle untill
the defendant
took them, &c.

said, then returned a certaine Inquisition before him at *O.* in the County of *R.* the 11. day of *S.* then last past by the oath of 12. &c : taken by which it was then found that the same *I. F.* the 20th. day of *May*, Anno 30. *Elix.* above said was seised in his demeasne, as of fee, of and in the Mannor of Little *H.* aforesaid, with the appurtenances in the same County of *R.* and of divers closes of Pasture, &c : with the appurtenances in Little *H.* aforesaid, whereof one close called *C. Close* then being in the tenure or occupation of *R. C.* And so recite the extent as in the Inquisition *verbatim.* And the same *Hay* the same Sheriffe the 20. day of *S.* then last past caused to be delivered to the same *I. A.* by the extent and price aforesaid, to hold as his free Tenements to him and his assignes, according to the forme of the statute aforesaid untill the same 100l. 10s. parcell of the same 200l. 10s. thereof be levied by pretext whereof the same *I. A.* was of the *Hay* aforesaid possessed, and also the same *I. A.* into the same moyety with the appurtenances entred, and was of the same moyety of the premises aforesaid with the appurtenances above recited, possessed untill the same *I. F.* afterwards and before the same time, in which, &c : the same *I. A.* out of his moyety aforesaid of the premises aforesaid with the appurtenances expelled and removed, whereby the same *I. F.* was of the premises aforesaid with the appurtenances to the same *I. A.* delivered, seised in his demeasne as of fee. And being so thereof seised, and also of the residue of the same Mannor in forme aforesaid, being seised, the same *I. F.* afterwards and before the same time in which, &c : to witt the 19. day of *May* Anno secundo above said by his writing aforesaid, gave and granted to the same *I.* his Executors Administrators and Assignes, the same yearly Rent of 6l. 13s. 4. issuing and coming out of the Tenements aforesaid with the appurtenances to have and receive the said yearly Rent, to the same *I.* and his Assignes, to his and their use, during the same terme of 4. yeares next following, as the same *T. W.* hath above alleaged, and the same *I. F.* the Elder of the same premises with the appurtenances in forme aforesaid being seised, the same *I. A.* claiming his state, of and in the premises aforesaid with the appurtenances to the same *I. A.* as before said, delivered afterwards and before the same time, in which, &c : into the same close with the appurtenances, in which, &c : before the same time, in which, &c : upon the possession of the same *I. F.* therein entred, and was thereof as in his former estate, possessed by vertue of the extent and deliverance aforesaid in forme aforesaid, and being so thereof, possessed the same *I. A.* afterwards, and before the same time in which, &c : into the close aforesaid called *C. Close* with the appurtenances entred, and was and yet is thereof possessed, and being so thereof possessed, the same *H.* afterwards and before the time, in which, &c : to witt the 20. day of *April*, Anno Reg. nunc 4. above said at *L. H.* aforesaid gave licence to the same *A.* to put his Cattle aforesaid into the same 50. Acres of Pasture with the appurtenances, to eat the grasse then there growing, by which the same *A.* before the same time of taking, &c : put his Cattle aforesaid into the same 50. Acres of Pasture with the appurtenances, to eat the grasse then there growing, and the same Cattle were in the same 50. Acres of Pasture with the appurtenances, eating the grasse then there growing, untill the same *T.* the 25. day of *April*, Anno Reg. Anglia 4. and Scocie 48. above said at *L. H.* aforesaid in the same place called *C. Close* took the same Cattle of the same *A.* and them unjustly detained against liberties and pledges untill, &c : As the same *A.* above against him complaineth, and this he is ready to verifie, whereupon for that the same *T.* the taking of the Cattle aforesaid in the same place in which, &c : above acknowledged the same *A.* prayeth Judgment and his damages by occasion of taking, and unjust detaining of the Cattle aforesaid, to him to be adjudged, &c : with this that the

the same *A.* will verifie that the same 100*l.* 10*s.* parcell of the debt and dammages aforesaid by the same *I. A.* against the said *I. F.* the elder in the Record aforesaid specified and recovered, are not to the same *I. A.* paid or leived, nor to the same *I. A.* thereof satisfied, with this also that the said close of Pasture called *C.* close in *L. H.* aforesaid by the price and extent aforesaid in form aforesaid delivered and the same place called *C.* close in which, &c. in the Declaration of the same *A.* aforesaid above Specified is and are one and the same close and no other nor divers, &c.

Replication
in barr to the
Avowry.

And the same *T.* saith that well and true it is that the judgment aforesaid for the same *J. A.* against the same *I. F.* in the Court of the said Lady the Queen before the same Lady the Queen of and for the same 200*l.* and 10*s.* for debt and damages aforesaid in form aforesaid was given, and that the same *I. A.* for having his judgment executed, prosecuted out of the same Court of the said Lady the Queen, the said writt of the said Lady the Queen of *Elegit* aforesaid, to the then Sheriff of the County of *R.* directed for parcell of the debt and damages aforesaid, and that by vertue of the same writt the then Sheriff of the County of *R.* all the goods and Chattels which were of the same *I. F.* besides his Oxen and Cattle belonging to his Plough, and also the moyery of all Lands and Tenements of the same *I. F.* in the same County of *R.* whereof the same place in which, &c. is parcell caused to be delivered to the same *I. A.* by the price and extent aforesaid to hold to him the goods and Chattels aforesaid, as his own proper goods and Chattels, and also to hold the moyery aforesaid with the appurt. as his free tenement to him and his assignes according to the form of the Statute aforesaid untill the same 100*l.* and 10*s.* parcell of the debt and damages aforesaid thereof should be levied by pretext whereof the same *I. A.* was of the goods and Chattels aforesaid possessed. And also the same *J. A.* into the moyery aforesaid with the appurtenances entred and was of the same moyery of the premises aforesaid with the appurtenances by the same Sheriff of *R.* above extended & appraised whereof, &c. to the same *J. A.* above recited possessed, as the same *A.* hath above alledged but the same *T.* further saith that after the extent appraisement and deliverance aforesaid in form aforesaid made, and also after the same grant by the same *J. A.* to the said *Henry* of the same close of Pasture called *C.* close in which, &c. in form as aforesaid made and had, an entry of the same *H.* thereinto by vertue of the same grant had, and before the same time in which, &c. And before the Annunciation of the blessed *Virgin Mary* which was in the second year of the Lord the King now above said the same *I. F.* into the same close of Pasture with the appurtenances called *C.* close in and upon the possession of the same *H.* therein entred, and the same *H.* from his possession thereof expelled and removed and the same *H.* from thence unjustly and without judgment withholdeth; whereby the same *I. F.* was of the same close of Pasture with the appurtenances called *C.* close in which, &c. (the same *H.* as aforesaid being seised in his desmeasne as of Fee) and being so thereof seised the same *J. F.* afterwards to wit the same 19. day of *May Anno Regis 2.* above said the same *J. F.* by his writing aforesaid here in Court brought bearing date the same day and year gave and granted to the same *J.* his Executors, Administrators, and assignes the same yearly rent of 1*l.* 3*s.* 4*d.* issuing and coming out of the tenements aforesaid with the appurtenances whereof, &c. to have and receive the same yearly rent to the same *J.* and his assignes unto his and their proper use during the same term of four years next following, the first payment thereof to begin at the Feast of the Annunciation of the blessed *Virgin Mary*, then next following after the date of the same writing, as he hath above alledged, and the same *I. F.* of the same close of Pasture with the appurtenances called *C.* close whereof, &c. in forme aforesaid being seised the same *I. F.* afterwards and before the

Disseisin of
the Grantee
of the tenant
in Common.

Disseisor
grants Rent
charge for 4.
years and af-
terwards leases
the Land at
will to the
people who
puts in his
Cattle; and
that the de-
fendant dis-
trained them
for Rent ar-
rears as in
Lands tried to
distress, &c.

same time in which, &c. to wit, the twenty day of *May Anno Regis 2.* at *L. H.* aforesaid demised to the same *A.* the same close of Pasture, with the appurtenances called *C.* close in which, &c. to have and to occupy to him and his assigns so long as it shall please both parties by vertue of which demise the same *A.* afterwards and before the same time in which, &c. into the same close of Pasture, with the appurtenances called *C.* close in which &c. entred, and was and yet is thereof possessed, and being so thereof possessed the same *A.* afterwards and before the same time in which, &c. to wit, the 25. day of *April Anno &c. 4. & Scoc. 38.* at *L. H.* aforesaid put his Cattle aforesaid, into the same 50. Acres of Pasture with the appurtenances to eat the Grasse then there growing, And the same Cattle were in the same 50. Acres of Pasture with the appurtenances eating the same grasse then there growing untill the same *T.* the same 25. day of *April Anno 4.* and 39. above said at *L. H.* aforesaid in the same place called *C.* close the same Cattle for the same 6 l. 13 s. 4 d. of the Annual Rent aforesaid to the same *Ia. H.* in form aforesaid being in arrear & unpaid in the name of a distres as in the Lands in form aforesaid charged and cried to the distres of the said *Iames* took and impounded, as to him it was lawfull, and this he is ready to verifie whereupon he prayeth judgment and return of the Cattle aforesaid together with damages, &c. to him to be adjudged, &c.

The Plaintiff
Demurres to
the replication
unto the barr
in Avowry.

And the same *A.* saith that the same Plea of the said *T.* to the barr of the Avowry aforesaid above in Reply pleaded and the matter in the same contained are insufficient in Law, for the same *T.* justly to acknowledge the taking the Cattle aforesaid as Bailiff of the same *Ia. H.* in the same place in which, &c. and that he to the same Plea in form aforesaid pleaded, hath no need nor by the Law of the Land are held to answer, and this he is ready to verifie whereupon for defect of sufficient Plea of the same *T.* in this behalf the same *A.* prayeth judgment and his damages by occasion of the taking and unjust detaining of the Cattle aforesaid to him to be adjudged, &c.

Joynder in
demurrer.

And the same *T.* from whence he sufficient matter in Law in his Plea aforesaid in barr of the Avowry aforesaid above by replication pleaded him the same *T.* justly to acknowledge the taking of the Cattle aforesaid as Bailiff of the said *I. H.* as above alleadged, which he is ready to verifie, which said matter the same *A.* doth not gaynsay nor thereunto any whit answer, but to admit of the justification altogether refuseth, as before prayeth judgment and the return of the Cattle aforesaid together with damages, &c. to him to be adjudged &c. and because the Justices here, &c. and hereupon the premisses being seen, and by the Justices here fully understood, it seemeth to the same Justices here that the same Plea of the same *T.* in barr of the Avowry aforesaid above by Replication pleaded and the matter in the same contained are insufficient in Law, him the same *T.* justly to acknowledge the taking of the Cattle aforesaid as Bailiff of the same *I. H.* in the same place in which, &c. As the same *A.* hath above alleadged for which the same *A.* his damages, &c.

Abbot justifies
the taking of
the Cattle
waived in an
hundred by a
thief, &c.

The thief
takes Sanctu-
ary and after-
wards abjures
the Realm
before the
Coroners.

H 7. Ed. 3. Rot. 1078. ff. And the same Abbot for himself and others, well avoweth the taking aforesaid in the same place, in which &c. and justly, &c. because he saith that he is Lord of the Hundred of *T.* within which hundred is the town of *M. W.* and saith that he hath liberty within the whole hundred aforesaid to have the goods of Felons and Fugitives to take and seise by himself and his Ministers, and saith that one *A. B.* the day and year above said, passed through the middle of the same town of *M.* Chasing the said Cattle, the same defendant and other men of the same Abbot came there and would have attached the same *A. B.* which said *A. B.* leaving the same Cattle, fled to the Church of *L.* in the Country aforesaid. And afterwards there, to wit, such a day and year, before *M. P.* then Coronor of the same place

place acknowledged himself to have stolne the same Cattle from the same Plaintiff, and there abjured the Realme; and by occasion of his liberty aforesaid the same Cattle as his own Cattle took, as it was Lawfull for him to do, and this he is ready to verifie, &c.

T 19. *Ja. Rot. 1767. s. Brownlow Liec.* And saith that the property Property. of the same Gelding is and at the same time in which the taking of the said Gelding is supposed, was, to the same *T.* without that that the property of the Gelding aforesaid the same time in which, &c. was in the same *W. B.* as by the same *W. B.* it is above supposed, and of this, &c. *T. 22. Jac. Rot. 1969.* the like property pleaded, ought not to be quashed, because he saith that the property of the Gelding aforesaid the same time of the taking of the same Gelding was in the same *W. B.* as the same *W.* hath above alleadged, and this, &c.

T 23. *Eliz. Rot. 1216. Warw. ff.* And saith that the propriety of the Oxe Property. aforesaid at the same time wherein the taking of the Oxe aforesaid above supposed to be done was to one *Alice B.* widow thereby the same *T.* as Servant to the same *A.* and by her Command the same time in which, &c. the Oxe aforesaid to the use of the same *A.* took and detained as to him it was Lawfull, and this he is ready to verifie whereupon he prayeth judgment of the writt aforesaid, his writt aforesaid ought not to be quashed because he saith that, &c. And the same Plaintiff saith that the propriety of the Oxe aforesaid the same time in which the taking of the same Oxe was supposed to be done was in the same Plaintiff, and not in the same *A.* as the same defendant hath above alleadged, and he prayeth, &c. Therefore 12. &c.

T 10. *Ja. Rot. 318.* the property traversed in *Replevin.*

M 6. & 7. *Eliz. Rot. 1951. ff.* the Taking was at *S.* in a certain place there called Queens High way took the Cattle to wit, 5. Geldings and Chatells and a Cart Loadned with thorns of the same Plaintiff.

ff. when &c. And as Bailiff of *D. D. Esq.* well acknowledgeth the taking of the Cattle aforesaid in the same place in which, &c. and justly, &c. because he saith that the same *D.* the same time wherein the taking of the Cattle & Chattles supposed to be done, & long before was seised of one hundred Acres of Wood with the appurtenances called *T.* otherwise *W.* in *S.* aforesaid in his demaine as of Fee, and because the same thorns before the same time in which, &c. were growing in the same 100. Acres of Wood until the same *R.* the same thorns in the same 100. Acres of Wood in his own right cut, and the same so cut upon the same Cart loaden to carry away from the same 100. Acres of Wood, and the Cattle aforesaid the same time in which, &c. the same Cart to with thornes from the same 100. Acres of Wood were drawing, and the Gra's there growing, eating and doing damage, the same *R. M.* as Bailiff of the same *D.* the same time in which, &c. came unto the same 100. Acres of Wood, to take and impound the Cattle and Chattels, aforesaid for the cause aforesaid, and the same *R. C.* perceiving the coming of the same *R. M.* the same from thence unto the same place called the Queens High way in which, &c. chased and the Chattles aforesaid carried away. And the same *R. M.* the Cattle and Chattles aforesaid presently followed; and the same then there took and detained for the cause aforesaid until, &c. As to him it was Lawfull, and this he is ready to verifie whereupon he prayeth judgment and return of the Cattle and Chattels aforesaid to him to be adjudged, &c.

Avowant saith that he was seised of 10. Acres of wood in fee, & that the Plaintiff cut his thorns and took them and carried them away in his Cart.

Fresh pursuite.

Plaintiffe saith
that the same
I. S. was seised
of the Mannor
of D. whereof
60. Acres of
Wood, &c. are
parcell in fee,
&c. And that
he by his com-
mand, cut the
said Thorns
and carryed
away, &c. them

And the same R. C. saith that the said R. M. as Bailiffe of the same D. for the reason before alleadged, ought not justly to acknowledge the taking of the Cattle and Chattels aforeaid in the same place in which, &c. because he saith that long before the same time of the taking of these Cattle and Chattels done, one I. H. was seised of the Mannor of M. O. with the appurtenances in the County aforeaid, whereof 60. Acres of Pasture called C. T. otherwile C. Wood in M. C. in the County aforeaid are, and the same time in which, &c. and also from the time, whereof the memory of man is not to the contrary, was parcell in his demaine as of fee, and being so thereof seised, before the same time in which, &c. of such his estate thereof died seised, after whose death the Mannor aforeaid, with the appurtenances whereof, &c. descended to one I. H. Elq. as Son and Heire of the same I. whereby the same I. afterwards, and before the same time in which, &c. into the same Mannor with the appurtenances whereof, &c. entred, and was thereof seised in his demaine as of fee, and the same I. so being thereof seised, the same R. C. afterwards and before the same time, in which, &c. as Servant of the same I. and by his command the thorns aforeaid in the said 60. Acres of Pasture late growing cutt, and the same, so there cutt upon the Cart aforeaid, put to carry them away from the same 60. Acres, and the Cattle aforeaid, the Cart aforeaid, so loadened with Thorns from the same 60. Acres of Pasture were drawing, untill the same R. M. the same day and yeare, &c. at S. aforeaid in the same place called the Queens high way, took the same Cattle and Chattels of the same R. C. and them unjustly detained against liberties and pledges untill, &c. As he above against him complaineth without this that the same R. C. cutt the same Thornes in the same 100. Acres of Wood called S. T. otherwile W. in S. aforeaid as the same R. M. hath above alleadged, and this he is ready to verifie, whereupon for that the same R. M. the taking of the Cattle and Chattels aforeaid in the same place in which, &c. done above acknowledgeth the same R. C. prayeth Judgment and his damages by occasion of the taking, and unjust detaining, of the Cattle and Chattels aforeaid to him to be adjudged, &c.

Issue upon the
Traverse.

And the same R. M. as before saith that the same R. C. cutt the Thornes aforeaid in the same 100. Acres of Wood called S. T. in S. aforeaid, as he hath above alleadged, and of this he putteth himselfe upon the Countrey, &c.

P. 28. Eliz. Rot. 2062 ff. in *resale* between *Kimpton* and *Wood*, the defendant saith that the place doth containe 6. Acres of Lands, as Bailiffe avoweth for damage feizant, the Plaintiffe saith that he is seised of 160. Acres of Land in fee, and pleaderth common of Pasture, the Defendant saith that the same 6. Acres of Pasture with the appurtenances lye in the common field of T. calle. D. in the County aforeaid, and that within the same Common field are 60. Acres of Land besides the same 61. Acres of Land in which, &c. And that the same T. K. and all those whose estate, &c. had in the same 160. Acres of Land in which, &c. as in the same 40. Acres lying in the said field of B. for horses, &c. and 20p. sheep upon the same 160. Acres of Land Levant and Couchant in form aforeaid, and the same T. and I. further say that before the same time in which, &c. one E. H. was seised of two Acres of Land, of the same 40. Acres of Land with the appurtenances in his demaine as of fee, and being so thereof seised, and the same G. K. of the the same 160. Acres of Land, unto which, &c. as aforeaid being seised the same E. H. before &c. made a feoffment of the same Lands to *Kimpton* in fee

fee, and he entered, and was seised in fee; and this, &c: Judgment and return, and a demurrer thereupon; and Judgment for the Defendant against the Commissioner.

M. 23; and 24: *Eliz. Rbr. 1817; Kalc. ff. William Gibbon Gent. against I. T.* of a plea, wherefore he took the Cattle of the same *W. &c:* And whereupon &c: saith that the said *John* the 21. day of *October*, *Anno 33. Eliz.* at *I.* took the Cattle to wit 80. Lambs and 20. of the same *W.* in a certaine place called *Rondels*, and 33. Weathers of the same *W.* in a certaine place there called *R.* And the same unjustly derayneth, &c.

And the same Defendant saith, that he took the Cattle afore said at *I.* afore said in a certayne place there called *R.* late of *R. C. Knight*, and the same Cattle from thence by and beyond the same place called *R. M. &c:* and *R. M. &c:* into the open pound at *I.* afore said chased, and there in the open pound impounded without this that he took the same 80. Lambs, &c: in the same place called *R. M. &c:* and the same 28. Weathers in the same place called *R. M. &c:* as the same *W.* by his declaration afore said above suppoeth, and this, &c: whereupon he prayeth Judgment of the declaration afore said and for return, &c: avoweth for Rent charge, &c.

The place traversed in Replevin.

T. 17. *Ja. Ret. 3156. S. Brownlow, Surry, ff. R. H. and R. S.* against *D. L. and G. L.* for taking of 5. bullocks the 8th, of *Decemb. 16. Ja.* at *R.* in a certaine place called *O.*

Copy holder in Reversion by the Copy of him in possession avoweth the taking, &c. for damages seized.

And the same *R.* and *R.* come and defend, &c: and the same *R. H.* in his own right, and the same *R. S.* as Bayliffe of the same *R. H.* well acknowledge the taking of the Cattle afore said in the same place, in which, &c: and justly, &c: because they say that the same place in which, &c: doth containe in it selfe 4. Acres of Pasture with the appurtenances in *R.* afore said, And that long before the same time in which, &c: *Tho.* late Duke of *Norff.* and *E.* late Earle of *Derby* were seised of the Mannor of *R.* with the appurtenances in the County afore said, whereof the same 4. Acres of Pasture with the appurtenances are, and the same time in which, &c: And also from the time whereof the memory of man is not to the contrary, were parcell in their demeaine as of fee, and that the same 4. Acres of Pasture, with the appurtenances are and from the time in which, &c: and also from the whole time afore said were customary Lands of the same Mannor and demitted, and demiseable by Coppy of Court Role of the same Mannor by the Lord of the same Mannor, or by his Steward of the mannor afore said, for the time being in demeaine, as of fee for terme of life or years to any person or persons whatsoever that would or will take the same, at the will of the Lord, according to the custome of the Mannor afore said, and by the whole same time after the death of any such customary Tenant of the same Mannor, dying thereof seised in fee simple in possession or in reversion, they descend, and are descendable to the youngest Son of such customary Tenant, of the same Mannor, so dying thereof seised, and the same *T.* late Duke of *N.* and *E.* late Earle of *Derby*, so of the Mannor afore said with the appurtenances whereof, &c: in forme afore said being seised, the same *T.* Duke of *Norff.* and *Edm.* Earle of *Derby*, afterwards to wit the 8th. day of *June Anno H. 8. 22.* at their Court, at the Mannor afore said held at the same Mannor by their then Steward of the same Mannor for the time being granted to one *R. H.* and *Marg.* his then Wife, the same 4. Acres of pasture with the appurtenances

Custome of the Mannor to grant estates in possession or reversion. The lands descended to the youngest son.

pances in which, &c: to hold to them and their heires of the same *R.* at the Will of the Lord, according to the custome of the same Mannor, by vertue of which grant the same *R.* and *M.* into the same 4. Acres of Pasture with the appurtenances in which, &c: entred and were thereof seised to witt the same *R.* in his demeasne as of fee, and the same *Ma.* in her demeasne, as of free Tenement for terme of her life at the will of the Lord, according to the custome of the Mannor aforesaid, and the same *R.* and *M.* of the same 4. Acres of Pasture with the appurtenances, in which, &c: in forme aforesaid, being seised, the same *Richard*, afterwards and before the sametime, in which, &c: at *R.* aforesaid died without heire of his body begotten, of such his estate therein seised, and the same *M.* him survived and kept her selfe within the same 4. Acres of Pasture, with the appurtenances in which, &c: and was thereof solely seised in her demeasne as of free Tenements for terme of her life, by right of Surviveourship, at the will of the Lord, according to the custome of the Mannor aforesaid, And the reversion of the same 4. Acres of Land, with the appurtenances in which, &c: after the death of the same *R.* descended to one *E. H.* as Brother and Heire of the same *R.* by which the same *Edw.* was seised of the Reversion of the same 4. Acres of Pasture, with the appurtenances in which, &c: as in fee and right, at the will of the Lord according to the custome of the Mannor aforesaid. And so seised *Edw.* dieth, seised of the Reversion which descended to *E.* youngest Son of the said *Ed.* the Brother, by which he was seised of the Reversion in fee, according to the custome of the Mannor, and so seised the same *Ed.* the Son died, seised of the Reversion which descended to *Rich.* the Avowant youngest Son of the same *Edw.* whereby he was seised of the Reversion in fee according to the custome of the Mannor and being so seised the first day of *May*, *Anno*, 1. *Ja.* at *R.* aforesaid died of such his estate therein seised, after whose death the same *R.* *Heath*, now Avowant into the same 4. Acres of Pasture with the appurtenances entred, and was, and yet is seised of the same 4. Acres of Pasture with the appurtenances in which, &c: in his demeasne as of free Tenement at the Will of the Lord, according to the custome of the Mannor aforesaid, and avoweth damage sezzant. Plaintiffe *non pros.*

Count in Replevin of a distres taken in one County and inpannelled in another County.

P. 22 *Eliz.*
Rot. 149.
P. 21. *Eliz.*
Rot. 723.
T. 10 *Eliz.*
Rot. 14. 20.

T. 15. *Ja.* Rot. 3223. s. *Brownlow Wigorn*, *Salop.* ff. *Jo. H.* Gent. was summoned to answer *Ed. B.* Gent. of a plea, wherefore he took the Cattle of the same *E.* and them unjustly detained against suerties and pledges, &c: And whereupon the same *E.* by *I. F.* his Attorney complaineth that the same *I.* the 25. day of *June* *Anno* Reg. 13. at *A.* otherwise *A.* in the Parish of *R.* in the County of *W.* in a certaine place called *M.* otherwise *O.* took the Cattle to witt three Oxen of the same *E.* and the same from thence unto *S.* otherwise *S.* in the County of *Salop.* chased, and the same there impounded: And in the pound there unjustly detained against pledges and suerties untill, *T. F.* Esq. the same Cattle to the same *E.* at his complaint made to be replevied, whereupon he saith he is the worse, and hath damage to the value of 40*l.* and there upon bringeth Suite, &c.

Count in Replevin for taking in a place in two Townes.

T. 17. *Ja.* Rot. 2128. s. *Gulston Morff.* R. P. against *W. D.* that the same *R.* the 2. of *Octob.* *An.* 16. *Ja.* in a certaine place called *Greens* close lying in *R.* and *T.* containing by estimation 61. Acres took the Cattle to witt 3. Calves called *Wauling* Calves, &c.

And

And the same *Ko.* well avoweth in the same place, in which, *&c.* And that long before the same time in which *&c.* one *Frances* was seised of the same 7 acres of Land, with the appurtenances in her demesne as of fee, and so being thereof seised, afterwards and before the same time in which *&c.* at *L.* aforesaid, took to husband the same *Ro. P.* by which the same *Ro.* and *Frances* were seised of the same 7 acres of Land, with the appurtenances in their demesne as of fee, in the right of the same *Frances.* And they being so thereof seised, had issue between them one *Anthony P.* and afterwards and before the same time in which *&c.* the same *Frances* wife of the same *Robert* at *R.* aforesaid dyed, and the same *Robert* her survived and kept himself within the same 7 acres Land, with the appurtenances, and was, and yet is thereof seised in his demesne as of free tenement for term of his life as Tenant thereof by the Curtesie of *England.* And avow damage fezant; the plaintiffe pleads in barr, that the said *Frances* was never seised of such an estate whereby the husband could be seised by Curtesie. And afterwards the Court agreed the Plea to be nought. And he pleaded the plea following, that the same *William* ought not justly to avow, because he saith, that long before the same time in which *&c.* the Lady *Eliz.* late Queen of *England* was seised of the Mannor of *K.* and *R.* with the appurtenances in the County aforesaid, whereof the said 7 acres of Land are parcell in fee and right of her Crown of *England.* And that the said 7 acres of Land were Coppy-hold Lands, And conveys an estate from the father of *Frances* in fee of the same 7 acres by Coppy. By vertue of which grant, the same *Jo. J.* into the same 7. acres of Land, with the appurtenances in which *&c.* entred and was thereof seised in his demesne as of fee at the will of the Lord according to the custom of the Mannor aforesaid. And the said *Jo.* so of the same 7 acres of Land, with the appurtenances in which *&c.* in form aforesaid being seised, the same *Jo.* afterwards and before the same time in which *&c.* at *R.* aforesaid dyed of such his estate thereof seised, after whose death the same 7 acres of Land, with the appurtenances in which *&c.* descended to one *Ka.* now wife of *W. Dennis,* and the same *Frances* as daughters and heirs of the same *Jo.* whereby the same *K.* and *Frances* into the same 7 acres of Land, with the appurtenances in which *&c.* entred and were thereof seised in coparcenary in their demesne as of fee at the will of the Lord according to the custome of the Mannor aforesaid, And the same *Ka.* and *Fr.* so thereof being seised, the same *Ka.* afterwards and before the time in which *&c.* at *R.* aforesaid, took to husband the same *William,* whereby the same *William* and *Katherine* in the right of the same *Katherine* were seised of one purparty of the same *Katherine* of the same 7. acres of Land, with the appurtenances in which *&c.* to the same *Katherine* our of the same seven acres of Land, with the appurtenances in which *&c.* happening in their demesne as of fee at the will of

Avowry by Tenant by the Curtesie damage fezant.

T. 3. Ja. rot. 217. such an issue in Avowry by Tenant by the Curtesie.

Descent pleaded to two parceners of one Coppy-hold in fee.

Replevin.

the Lord according to the Custome of the Mannor aforesaid. And they being so thereof seised, and the same *Frances* of the said other purparty of the same 7 acres of Land, with the appurtenances happening to the said *Frances* in her demesne as of fee at the will of the Lord according to the Custom of the Mannor aforesaid being seised, the same *Frances* afterwards and before the same time in which &c. took to husband the said *Robert P.* by which the same *Robert* and *Frances* in the right of the same *Frances*, were seised of the other purparty of the said *Frances* of the same 7 acres of Land, with the appurtenances in which &c. in their demesne as of fee, at the will of the Lord according to the custome of the Mannor aforesaid. And the same *w.* and *Ka.* in the right of the same *Ka.* And the said *Ro.* and *Frances* in the right of the said *Fr.* afterwards, and before the same time in which &c. at *R.* aforesaid dyed of their purparties of the same 7 acres of Land, with the appurtenances in which &c. seised without heirs of their bodies begotten, after the death of which said *Frances* the same purpart of the same 7 acres of Land, with the appurtenances in which &c. seised without heir of her body begotten, after the death of which said *Frances* her purpart of the same 7 acres of Land, with the appurtenances in which &c. which was of the same *Frances* descended to the same *Katherine* as Sister and heir of the same *Frances*, by which the said *William* and *Katherine* in the right of the same *Katherine* were seised of the same whole 7 acres of Land, with the appurtenances in which &c. in their demesne as of fee at the will of the Lord according to the custome of the Mannor aforesaid; and being so thereof seised, the same *William Dennis* afterwards and before the same time in which &c. put his Cattle aforesaid &c. without that that the same *Frances* was seised of the same 7 acres of Land, with the appurtenances in which &c. in manner and form as the same *Robert* hath above alledged. And this he is ready to verifie, whereupon for that the same *Robert* the taking of the Cattle aforesaid in the same place in which above acknowledgeth, the same *w.* prayeth Judgment and his damages, by occasion of the taking and unjust detaining of the Cattle aforesaid to him to be adjudged &c. issue upon the travers.

One Coparcener dyeth without issue, her purpart descends to the other parcener.

T. 10. Ja.
vol. 415.
M. 10. Ja.
vol. 3393.

The Defendant makes Comusans as Bailiff of the Lord of the Mannor for a forfeiture in the Court Baron in arrear.
P. 19. H. 8.

T. 17. Ja. rot. 1707. s. *Brownlow Buck. s. w. T. re. T. B.* of a Plea wherefore he took one horse &c. 30. *Octob. 16. Jac.* at *S.* in the Parish of *S.* in a certain place called the Stable, &c.

And the same *w.* cometh and defendeth &c. And as Bailiff of *Ro. D. Esquire*, well acknowledgeth the taking of the horse aforesaid in the same place in which &c. And justly &c. because he saith, that the same place wherein &c. is. And the same time in which &c. was one Stable parcel of a certain Mes. of the same *Tho.* in *S.* aforesaid, of which said Mes. and 30 acres of Land, with

with the appurtenances in *S.* aforesaid, the some day *Tho. B.* before the same time in which *&c.* And also the same time in which *&c.* was and yet is seised, in his demeasne as of fee. And the same Tenements, with the appurtenances in which *&c.* held of the same *Ro. D.* as of his Mannor of *S. St. Mary,* and *S. St. Nicholas,* otherwise called *S.* together with *B.* and *C.* with the appurtenances in the County aforesaid in free Socage by fealty, rent and Service, to make Suit unto the Court of the same *Robert* at his Mannor aforesaid from three weeks to three weeks, at the same Mannor yearly to be held; of which said Mannor, with the appurtenances the same *Ro. D.* the same time in which *&c.* was and yet is seised in his demeasne as of fee. And the said *W.* further saith, that the same *K.* of the Mannors aforesaid, with the appurtenances in form aforesaid being seised, And the same *Tho.* of the Tenements aforesaid, with the appurtenances in form aforesaid being seised, before the same time in which *&c.* And also the same time in which *&c.* there was a common Pond within the Mannor aforesaid in *S.* aforesaid, for all Inhabitants of the same Town of *S.* aforesaid, Tenants of the Mannor aforesaid, to water their Cattle in the same Pond. And that the same *Thomas* before the same time in which *&c.* inclosed the whole Common Pond aforesaid, part of the same common Pond being upon the Waste of the Mannors aforesaid, And that afterwards and before the same time in which *&c.* to wit, at the Court-Baron of the same *Robert* of his Mannor aforesaid held at the same Mannor the 19. day of Septemb. *Anno Rs. 13.* by the then homage of the Tenants of the Mannor aforesaid, to inquire of such things which to the Court-Baron of the same Mannor then appertained, then and there sworn before *R. M.* Esquire, then Steward of the same *R. D.* at the Court of his Mannor aforesaid was presented, that the said *T. B.* had incroached and inclosed the same Pond. And the same so incroached and inclosed, had kept inclosed, whereby then and there at the same Court-Baron of the Mannor aforesaid, by the then Steward of the same Court it was commanded to the same *T. B.* that he should lay open the same common Pond by him as aforesaid incroached and inclosed before the Feast of *All-Souls* then next following under the penalty to forfeit 10 s. And the same *W.* farther saith, that afterwards and before the same time in which *&c.* to wit, at the Court-Baron of the same Mannor of the same *Ro.* held at that Mannor the 17. day of *Aprill, Anno 15. Regis.* by the then homage and tenure of the Mannor aforesaid, to inquire of those things which to the same Court-Baron belongeth, then and there Sworn before the same *R. M.* then Steward of the same *R. D.* of the Court of the Mannor aforesaid was presented, for that the same *T. B.* had not laid open the same Common Pond by him as aforesaid incroached and inclosed before the same Feast of *All-Souls.* As to him it was before commanded, whereby the same *T.*

T. 20. *Ja.*
Rot. 1036.
Avowry for a
fine assessed in
a Court Leet
and Baron.
Tenure in
Socage.

The inclosure
of the pond
presented in
the Court Ba-
ron.

Day given to
lay open the
Pond under
pain of x. s.

2. presentment
the said com-
mon Pond
was not laid
open.

Replevin.

Pain forfeited.

T. 20. Ja.
rot. 2784. like
Avowry.

Custom to in-
hale the
Lord to dis-
trein the
goods in the
Mannor for
pains forfeit-
ed.

The taking of
the Cattle.
avowed for
the forfeiture.

Barr protesta-
tion to the
tenure.

Protestation
to the present-
ment.

Protestation
to the forfei-
ture of the
penalty.

Protestation
for Custome.

B. forfeited to the same *R. D.* then and yet Lord of the Mannor aforesaid, with the appurtenances, being the same penalty of 10 s. upon the same *T.* by the same Steward of the Court-Baron of the Mannor aforesaid, in form aforesaid imposed. And the same *W.* further saith, that within the Mannor aforesaid is had and from the time whereof the memory of man is not to the contrary was had such a Custome, to wit, the Lords of the Mannor aforesaid for the time being, have used and were accustomed by their Bailiffs of the same Mannor for the time being, and the amerciaments of the Lord of the Mannor aforesaid being in arrear, and pains upon any person and persons in the Court-Baron of the Mannor aforesaid lawfully imposed, forfeited, and not paid, within the same Mannor to distrein any Goods or Chattels of such person or persons, and the same within the said Mannor to impound and keep impounded untill such amerciament and pain be satisfied and paid to the Lord of the Mannor aforesaid. And because the same 10 s. in form aforesaid forfeited to the same *R. D.* the same time in which &c. were in arrear and not paid the same *W.* as Bailiff of the same *R.* well acknowledgeth the taking of the horse aforesaid in the same place, in which &c. for the same 10 s. being in arrear, and justly &c. within the precinct of the Mannor aforesaid. *See the new Book of Entries*, fol. 570, and 571.

And the same *T.* saith, that the said *William* as Bailiff of the said *Ro. D.* for the reason before alledged, the taking of the horse aforesaid, in the same place in which &c. ought not justly to acknowledge, because protesting that the same *Tho.* held not the same Mes. and 30 acres of Lands, with the appurtenances of the same *R. D.* as of his Mannor of *S. St. M.* and *S. St. N.* otherwise *S.* together with *B.* and *C.* with the appurtenances in the County aforesaid in free Soccage, to wit, by fealty rent and Suit of Court aforesaid, as the same *W.* by his Conusans aforesaid above supposeth. Protesting also, that he was not presented by homage aforesaid to the same Court-Baron of the Mannor aforesaid, that the said *Thomas* had incroached and inclosed the pond aforesaid. And the same so inclosed and incroached kept. And also, that he was not presented by homage aforesaid, that the said *Thomas* had not laid open the pond aforesaid, so as aforesaid inclosed and incroached, As the same *W.* by his Conusans aforesaid above Supposeth. Protesting also, that the same *Thomas* hath not forfeited to the said *Ro. D.* then being Lord of the Mannor aforesaid, the same penalty of 10 s. As the same *W.* by his Avowry aforesaid above likewise Supposeth. Protesting also, that within the Mannor aforesaid there is nor, And also from the time whereof the memory of man is not to the contrary was such a custome had, that the Lords of the Mannor for the time being have used and were accustomed by their Bailiffs of the same Mannor for the time being for the Amerciaments to the Lords of the Mannor aforesaid forfeited and being in arrear, and penalties

nalties upon any person or persons by the Court-Baron of the Mannor aforesaid imposed and forfeited and not paid, within the same Mannor to distrein the Goods or Chattels of such person or persons, and the same within the same Mannor to impound and keep in pound untill &c. for plea saith, that the said *Thomas* is and by the space of six years then last past was seised of the Pond aforesaid in his demesne as of fee. And the same Pond afterwards and before the same time of the taking &c. at *Smalden* aforesaid to his own use inclosed. As to him it was lawful, without that that the same Pond the same time of the taking &c. was a Common Pond for all Inhabitants of the same Town of *S.* aforesaid, Tenants of the Mannor aforesaid to water their Cattle, there as the same *William* hath above alledged. And this he is ready to verifie, whereupon for that the same *W.* the taking of the horse aforesaid in the same place in which &c. above acknowledgeth, the same *Thomas* prayeth Judgment and return of the same horse, together with damages for the occasion of taking and unjust detaining of the same horse to her to be adjudged, &c.

For plea saith, that he is seised in fee of the said Pond, and inclosed it for his own use. Travers. that it is a common Pond, &c.

Issue upon the travers.

And the same *W.* as before saith, that the same Pond the same time in which &c. was the Common Pond for all Inhabitants of the same Town of *S.* aforesaid Tenants of the Mannor aforesaid, to water their Cattle there as the same *W.* hath above alledged. And of this he putteth himself upon the Countrey. And the same *Tho.* likewise therefore the Sheriffe is commanded, that he cause to come here *Tres. Trin. 17. &c.*

Replevin for Goods taken upon a River. P. 30. J. rot. 118. Replevin for Chattels, to wit, for one plough with the furniture.

P. 1. *Ja. 510. Brownlow, Oxon. ss. James Fynch re. Ro. H.* Doctor of Divinity, of a Plea, wherefore he took the Goods and Chattels of the said *Robert*, And them unjustly detained against Sureties and Pledges &c. And whereupon the said *Ro.* by *Tho. Carter* his Attorney complaineth, that the said *Ja.* the second day of September, *Anno Eliz. Regni A. 44.* at *Newington* in a certain Water there called *Thamesstream*, between the Meadow called *D. Meadow* on the West &c.

Rationabili parte bonorum.

Reasonable
part of the
goods brought
by the Hus-
band and Wife
against the
Executors of
the first Hus-
band for the
third part of
the goods at
the Common-
Law.
Note the
book of En-
tries, fol. 564.
and 5. pl. 1.
and 2. 30. E. 3.
fol. 25. 17. 13.
fol. 9. and 17.
Such Writs
are brought by
the Curtesy of
England.
COURT.

P 35. *Eliz. rot. 158. Devon. ff. 3. r.* late of &c. and others
exti. of *W. W.* were summoned to answer *Edo. A.* and *M.* his
wife, who was the wife of *W. W.* of a Plea, wherefore accor-
ding to the law & custome of *England*, &c. hitherto obtained, and
approved wives after the death of their husbands, ought to
have a reasonable part of the goods and Chattels, which were
of their said husbands, the same Executors to the same *E.* and *M.*
the reasonable part of the same *M.* to the value of 2000. Marks
of the goods and Chattels which were of the said *W.* her late hus-
band, unjustly detain. And the same to her to render gainfay, to the
no little damage, and grievance of the same *E.* and *M.* and against
the Law and custome aforesaid, &c. And whereupon the same
E. and *M.* by *C. D.* their Attorney, say, that whereas according
to the Law and custome of the Realm of the said Lady the Queen
of *England* hitherto obtained & approved Wives, after the death
of their Husbands, ought to have a reasonable part of the goods
and Chattels which were of their husbands, to wit, the third part
of the same goods and Chattels, besides the debts of their hus-
bands paid, and reasonable expenses about the Sepulture and ex-
equies to be made as her reasonable part. And the same *W.* such
a day and year, at *C.* in the County aforesaid died, and at the
time of his death, was possessed of a certain term of years, &c.
And of &c. to the value &c. and of 200. l. in ready money, and
also of 100. l. due to the same *W.* at the time of his death, and after-
wards received by the same Executors : which said goods, Char-
tels, and Moneys after the death of the same *W.* to wit such a day
and year at *C.* aforesaid, unto the hands of the same Executors by
reason of the execution of the Testament aforesaid came, and in
their hands besides, and after the debts of the same *W.* paid, and
the expenses about his Sepulture and exequies done there remain-
ed, whereby unto the same *M.* whilst she was sole it-belonged.
And unto the same *E.* and *M.* after Espowfals between them
celebrated, it doth belong to have the third part to the value of
the same 2000. Marks of the goods Chattels and Moneys, which
were of the said *W.* at the time of his death, as the reasonable part
of the same *M.* according to the Law and custome aforesaid.
Nevertheless the same Executors, the reasonable part of the
same *M.* to wit, the said third part, to the value &c. of the same
goods and Chattels which were of the same *W.* her late husband,
&c. to the same *M.* whilst she was sole, and to the same *E.* and
M. after espowfals between the same *E.* and *M.* celebrated de-
tained. And the same from the said *E.* and *M.* yet detain un-
justly, and the same to the said *E.* and *M.* to render, do gainfay
to the no little damage, and grievance of the said *E.* and *M.* and
against

against the Law and custome aforesaid, whereupon they say they are the worie, and have damage to the value of 3000. l. And thereof bring suite, &c. And the same defendants, when, &c. And protest that there is not any such Custome of the Realm of the said Lady the Queen of *England*, that wives after the death of their husbands, ought to have a reasonable part of the goods, and Chattels which were of their husbands, to wit, the third part of the same goods and Chattels besides their debts paid, and reasonable expenses about the Sepulture, and exequies to be made as her reasonable part. As the same *E.* and *M.* by their Writ and declaration above suppose, for plea say that they do not detain from the same *E.* and *M.* the said reasonable part to the value of the same 2000. Marks, nor of any part of the goods and Chattels which were of the same *w.* her late husband *prou.* &c. And of this they put themselves upon the Country, &c.

Plea in bar that the defendants do not detain the reasonable part, &c.

T 26. H. 8. rot. 451. s. *Coningesby C. Ebor.* ff. T. H. and K. his Wife, against A. T. Widow, and J. T. Executors of J. T. and the Writ, and Count, is according to the Custome in the City aforesaid, &c. the defendants confesse the Action by *nil. dic.* judgment of the goods of the Testator, &c. Errour brought upon that judgment, there rot. 649. s. *Coningesby, King*, and others against S. the like Writ in the County of *Devon*. according to the custome of the County aforesaid; issue upon *Plene Administraver.*

M 6. H. 8. rot. 405. *Rationabili parte bonor.* brought by the Children according to the law and custome of *England*. P. 23. *Eliz.* rot. 1348. Not. between B. and B. M. 26. H. 8. rot. 431. H. 12. *Eliz.* rot. 1444.

T 1. Jo. rot. 1319. and 1320. s. *Brownlow Ebor.* ff. R. C. Executor of the Testament of C. C. was summoned to answer C. C. one of the Sons of C. C. the father of a Plea, wherefore according to the custom in the County aforesaid, hitherto obtained and approved Children after the death of their fathers, who are no heirs, nor were promoted in the life of their fathers, ought to have a reasonable part of the goods and Chattels which were of their fathers the same Executors to the same C. Son of the said C. the father after the death of the same C. his father, whose heir he is not, nor who in the life time of his father was promoted, his reasonable part to the value of 40. l. of the goods and Chattels which were of the same C. his father from the same C. his son, detaineth unjustly, and the same to him to render, gain sayeth to the immoderate damage and grievance of &c.

Rationabili parte bonor. according to the custome of the County of *York*, brought by the Son nor being advanced.

T. 18. Jo. rot. 2030. *Gulston.* between B. and C.

H. 3. *Eliz.* rot. 424. brought by the daughter.

H. 5. C. rot. 450. the like for C. against C. judgment for the plaintiffe.

See the Register orig. fol. 141. Such Writs by the customs of the Country.

And

Rationabili parte bonorum.

See book En-
tries fo. 541.
same title pl.
New book of
Entries, fo. 56.
a. and 5. pl. 1.
and 2.
40. E. 3. fo. 38.
pl. 13. 7. E. 4.
21. pl. 24.

And against the custome aforesaid, &c. And whereupon the same C. the son by J. R. his Attorney, saith, that whereas according to the custome in the County aforesaid, hitherto kept and approved children after the death of their fathers and are not their heirs, nor were promoted in the life time of their father, ought to have their reasonable parts of the goods, and Chattels which were of their Fathers, to wit, that if the Father at the time of his death should have a Wife and Children, then the Children ought to have a third part of the goods and Chattels which were of the same Father, at the time of his death, into three parts to be divided after his Fathers debts are paid, and reasonable expenses about the funeral and exequies done, as his reasonable part, by the custome aforesaid. And the same C. the father, the 16. day of *Novemb. Anno Eliz. Regin. 1.* at the Castle of York, in the County aforesaid died, and at the time of his death was possessed of divers Sums of money, goods, and Chattels, to wit, of 153. l. 16. s. 6. d. *ob.* in ready money, one Silver Bason, to the value of 20. l. one Ewer of Silver parcel gilt, to the value of 10. l. (and recites the goods and Chattels) which said several sums in the whole, do amount to 960. l. which said 153. l. 16. s. and 6. d. *ob.* in ready money, and the goods and Chattels aforesaid, after the death of the same C. the father unto the hands and possession of the same R. the day and year abovesaid at C. E. aforesaid came, and in his hands and possession, besides the debts of the same C. the father paid, and the expenses about the funeral done, remained. And the same C. his father had at the time of his death, a Wife and eight children which were not his heirs, nor promoted in his life time, to wit, J. C. M. C. G. C. T. C. Eliz. C. F. C. and the same C. now the plaintiffe, his children by which unto the same C. one of the children of the same C. his father, by vertue of the custome aforesaid, it belongeth to have an eight part of the third part of the goods and Chattels aforesaid, to be divided into three parts in the hands of the same Executors remaining, as his reasonable part, whereof the Executor his reasonable part aforesaid, to wit the eighth part of the third part of the goods and Chattels aforesaid, to wit, 40. l. of the goods and Chattels which were of the said C. his father, from the same C. unjustly detaineth, and the same to him to render, gainsaieth to the great damage and grievance of the same C. and against the Custome aforesaid, whereupon he saith, &c. dammage 100. l. &c.

Plea ne vaq;
Executor.

And the defendant maketh defence and *Adio non*, because he protesteth, that the same C. the father dyed not possessed of Goods and Chattels to the value of 100 l. *prout*, the Son by his writ and declaration aforesaid supposeth for plea saith, *ne unq;* executor.

Replication
that divers
goods came to
the defendants
hands.

And the same C. the Sonne saith, that *precludi non*, because he saith, that the said R. divers good and Chattels which were of the same C. his Father at the time of his death after the death of the

the same C. administred, to wit, at *L.* in the County of *D.* And this he prayeth may be inquired of by the Countrey, And the said *Ro.* likewise. And hereupon the same C. saith, that the Town of *L.* is within the Liberty of Bishop of *Durham*, where the Kings Writ dorth not run to any Minister, &c. And because the same *R.* doth not contradict this, therefore the Record of the plaint aforesaid be sent to the Bishop of *Durham*, that he farther send to the Justices itinerant of the Lord the King within the Liberties aforesaid the said Record. So that they have it at their next Court there at the City of *Durham* to be held, after the same Record shall come to him, to cause there to be done for the verification of the said issue as the Law shall perswade in that behalf. The same day is given to the parties aforesaid there and when verification thereof shall there be made and tryed, the same Bishop send to the Justices here the same Record, and what shall be done in the same Court at a certain day, which the same Justices of the said Lord the King to the parties aforesaid in the same Court shall prefix Judgment &c. afterwards, to wit, in *Off. Sci. Hill.* then next following here to wit at *westmin.* which said day the same C. the Son, and the same *R.* had of the prefixing of *T. W.* one of the Justices of the said Lord the King of the Common Bench, and *J. S.* &c. one of the Barons, &c. Justices of the said Lord the King at *Durham* to hear, their Judgment here to wit, at *westmin.* aforesaid came the same C. by his Attorney aforesaid. And the same Justices at *Durham* send here the Record with the whole fact in the premisses before them at *Durham* had in these words *Possea* &c. reciting the whole *Possea*; the Jury find for the plaintiff, and assesse damages to two pence. And for costs 40 s. therefore the Record aforesaid, together with the Writ and pannel aforesaid be remanded of the said Reverend Father, that he have the same Record before the Justices of the said Lord the King within written in *Off. Sci. Hill.* the same day is given to the parties aforesaid to hear thereof their Judgment &c. whereupon the premisses being seen, and by the Justices fully understood, It is considered, that the said C. the Son recover against the same *R.* his reasonable part, to wit, the eighth part of the third part of the Goods and Chattels aforesaid, of the Goods and Chattels which were of the said C. the Father in the hand of the same *R.* being to be levied, which do amount unto the same Summe of 40 l. and his damages, by the occasion of the detaining of the goods and Chattels to 4. s. & ij. d by the Jury aforesaid in form aforesaid assessed. And also 9 l. 10 s. and 10 d. to the same C. the Sonne at his request for his costs and charges aforesaid by the Court here of increase adjudged; which said damages in the whole do amount unto xi. l. & x s. of the same Goods and Chattels if so much thereof in his hands he have; and if he have not, then the same 8th part of the third part of the Goods and Chattels aforesaid of the value of x. l. and the damages

Challenge
and award ve.
fac. Eps. Dunelm.

Verdict for
the Plaintiff.

Judgment.

Rationabili parte bonorum.

atord said to be levied of the proper Goods and Chattels of the same R. and the same R. in mercy &c.

Rationabili parte bonorum
upon the Custom of Kent,
brought by the husband
and wife against the Ad-
ministrators of the first
husband.

M. 15. Ca. Rot. Kant. ꝑ. E. N. administrator of the Goods and Chattels which were of J. W. during the minority of J. W. Son of the same I. were summoned to answer E. W. Widow, who was the Wife of the same I. W. of a plea wherefore whereas according to the Custome in the County aforesaid hitherto obtained and approved, Wives after the death of their husbands ought to have the reasonable part of the Goods and Chattels which were of their husbands the same Administrator, the same E. of her reasonable part to the value of 500 l. of the Goods and Chattels which was of the same I. her late husband unjustly detained; and the same to her to render gain sayeth; to the great damage and grievance of the same E. and against the Custome aforesaid. And whereupon the same E. by J. W. her Attorney saith, that whereas according to the Custome in the County aforesaid hitherto obtained and approved wives after the death of their husbands ought to have their reasonable parts of the Goods and Chattels which were of their husbands, to wit, that if any man dying, at the same time of his death should have wife and children, then after the reasonable expenses about his funerall and exequies of such men, all the goods and chattels which were of such husband at the time of his death remaining, should be divided into three equall parts. And one equall third part of the same goods and chattels should be disposed of by the Executor or Executors of such husband towards the payment of his debts and Legacies due by such husband or legacied, if the same husband in his life-time shall make his Will. And if he should dye *intestate*, then the same third part of the goods and chattels should be disposed of by the Ordinary of the same place where such husband should dye in form aforesaid. And that his Wife ought to have one other equall third part of the goods and chattels aforesaid for her sustenance and maintenance. And that those Children who are not heirs to their Father, or were promoted in his life-time ought to have another equall third part of those goods and chattels residue. And if he should have a wife and no children, or if he should have one onely Sonne or Daughter; which or who should be heir to their Father, then after such reasonable expences about the Funeral and Exequies of such husband, all the goods and chattels which were of the same husband left at the time of his death, should be divided into two equall parts, and one moyety of the same goods and chattels should be disposed by the Executor or Executors of such husband about the payment of Debts and Legacies by such husband owing or bequeathed, if such husband shall make his Will in his life-time; and if he should dye *intestate*, then the same

same moyety of the Goods and Chattels shall be disposed of by the Ordinary of the same place where such man dyed in form aforesaid. And that his said Wife ought to have the other moyety thereof for her sustenance and maintenance as her reasonable part, the same *I. W.* the 7th day of *Februar* Anno Regis 12. at *F.* in the County aforesaid dyed, and at the time of his death had one purse, &c. All which said goods and chattels in the whole amounted unto the Summe of 1000 l. unto the hands and possession of the said *Ed.* after the death of the same *J.* the 29 day of *April* Anno 12. aforesaid at *F.* aforesaid, came and in his same hands besides and after his debts paid and reasonable expences towards his Funerall and Exequies done remained. And the same *I.* at the time of his death had the same *I. W.* Son and heir of the same *I. W.* his father, and no other son or daughter to which said *I.* the son divers Lands and Tenements in *H. F. C. & H.* in the County aforesaid, of the clear yearly rent beyond reprises *C. l.* from the same *I.* his Father by hereditary descent, And the same *E.* at the time of the death of the same *I. W.* father, was Wife of the same *I. W.* whereby it belongeth to the same *E.* to have the moyety of all the goods and chattels aforesaid in the hands of the same *Ed.* remaining, as the reasonable part remaining to the value of the same 1000 l. after the said goods and chattels which were of the said *I. W.* the father, her late husband, at the time of his death detaineth from the said *Eleanor* unjustly, and the same to her to render gainsayeth, to the extraordinary damage and grievance of the same *E.* and against the Custome aforesaid, whereupon she saith that she is the worse, and hath damage to the value of 600 l. And thereof he bringeth Suit, &c.

And the same *Ed.* by *I. C.* his Attorney cometh and defendeth the force and wrong when &c. And saith, that the same *E.* her Action aforesaid against him ought not to have, &c. because protesting that the Goods and Chattels in the declaration aforesaid above specified, did not mount to 1000 l. and also protesting, that *I. W.* the Father, besides the same *I. W.*

his son had a daughter, to wit, one *E. W.* for plea saith, that there is not had any such Custome in the County aforesaid, as the same *E.* by her Writ and Declaration aforesaid above Supposeth. And of this he putteth himself upon the Country, &c.

Protestation of the value of the goods, and also that the intestate had another Sonne for plea null. iel. Custome and issue thereupon.

Rationabili parte bonorum.

Amongst the Records of King *Charles* in the Treasury of the receipt of the Exchequer under the Custody of the Lord Treasurer and Chamberlain, there remaining, to wit, in one *egg de quo warranto* intituled *Raucie*, it is contained as followeth.

Pleas of Juries and Assizes before J. de B. T. de N. J. de L. and H. de C. Justices Itinerant at Canterbury in the County of Kent, from Easter day in Fifteen dayes Anno Regis Edri. Son of H. 21. Rot. 4. indorsed.

ß.

P*le. C. de B.* otherwise before the Justices of the Common Bench, was summoned to answer *G. de B.* and *Agnes* his Wife, of a Plea that they render to them their Chattels to the value of 20*l.* which from them they unjustly detain &c. And whereupon the same *G.* and *A.* by their Attorney say, that whereas such a Custome is in the County of *Kent*, That if any man of any woman should dye without issue of the same man and woman begotten, the moyety of all moveable goods which were of the said husband at the time of his decease to the same woman ought to remain. And if they have issue, a third part onely shall remain to him. And the same *A.* after the death of one *w. le C.* her late husband who dyed without issue, by the same *w.* and *A.* begotten, and who had Chattels to the value of 40*l.* was seised of the Goods and Chattels which were of the said deceased, to wit, of 3. Cowes, &c. and other Goods and Chattels to the value of 20*l.* for the moyety of the Goods and Chattels which were of the same deceased, to the same *A.* happening, the same *P.* who succeeded the same *w.* in the Tenements wherein the same Chattels were as his Son and heir, the same Chattels happening to the same *A.* for her moyety &c. appropriated, And the same from them have hitherto detained and still detain, whereupon they say &c. *damnum* 30*l.* And thereupon they bring Suit, &c.

And the same *P.* by his Attorney cometh and saith, that he ought not to answer them therein unto their Writ, nor unto their Declaration, because he saith, that whereas the same *G.* and *A.* require the same Chattels by the same Writ in debt, and in their declaration aforesaid assever the same *A.* to be seised of the same Chattels; nor shew that the same *A.* the Chattels aforesaid in her seizure delivered to the same *Peter* at any certain term to be restored to the same *A.* or that the same *P.* by writing

writing or any other means bound himself to the same *A.* to pay the same. Supposed, for which the same *P.* took the same Cattel and them unjustly detained &c. or that he took them or carried them away, by which in such case another Writ *Sibi Competet*, and prayeth Judgment &c. And afterwards the same *P.* relinquished the said exception, And said, that he after the death of the said *W.* late husband &c. his Father whose Executor he is, delivered to the same *A.* the moyety of all the goods and chattels which were of the same *W.* at the time of his death, which said chattels the same *A.* obtained and received, without this, that any goods or chattels of the same moyety to the same *A.* happening ever afterwards, came into the seisure of the same *A.* And of this he put himself upon the Country, And the same *G.* and *A.* likewise. Therefore it was commanded the Sheriff that he would cause to come there xv. *Trin.* next to come 12. &c. by whom &c. And who neither &c. to recognize in form aforesaid, &c. because aswell, &c. And in the mean time the Justices *itinerant* came into the County aforesaid, And the parties now come, And the Jury say upon their oath, that the moyety of the goods of the same *W.* after his death were delivered to the same *A.* for her part to her happening. And that by the permission of the same *A.* remained thereof in the said Tenement with the same *P.* goods to the value of one mark onely, which goods the same *A.* after she was espoused to the same *G.* would have removed out of the same Tenements, which to do the same *P.* would not suffer. Therefore it is considered, that the same *G.* and *A.* recover the chattels aforesaid and their damages, which are taxed by the Jury to one mark against the same *P.* and *P.* in mercy, &c.

Mercy.

Ravishment de Gard.

Ravishment
de Gard.

M. 8. *Jo. rot.* 447. s. *Brownlow*. Otherwise as it appeareth in Easter Term *Anno Regis Angl.* 7. & *Scot.* 42. *Rot.* 1008. it is thus contained. *Devon.* *ss.* *T. Q.* late of &c. was Attached to answer *J. N.* Esquire, of a Plea, wherefore *Andrew Q.* Son and heir of *J. G.* Gent. being within age, whose marriage belongeth to the same *J. N.* belongeth at *C.* found took and carried away against the will of the said *J. N.* and against the peace of the Lord the King now. And whereupon the same *I. N.* by *J. W.* his Attorney complaineth, that whereas the same *I. Q.* the Father of the same *A.* was seised of the moyety of 3. acres of Meadow, with the appurtenances in *S. S.* aforesaid, in the County aforesaid, called *W. Meadow*, in his demesne as of fee. And the same moyety with the appurtenances held of the same *I. N.* as of the moyety of his Mannor of *N. St. S.* in the County aforesaid, by homage, fealty, and Escuage of the Lord the King of 40 s. when it shall happen ijs. &c. And by the rent of 8. d. every year at the Feast of *St. Mich.* the Arch-Angel yearly to be paid, of which services the same *I. N.* was seised by the hands of *I. Q.* as by the hands of his true Tenant, to wit, of homage and fealty aforesaid as in fee and right, and of the Escuage and Rent aforesaid in his demesne as of fee. And the same *J. Q.* dyed in

Tenure by di-
vers services.

The time and place ought not
to be in this case.

The time day and place of the
seizure of the gard ought not
to be. *T. 36. Eliz.* *Rot.* 1913.
agteeth with this form, be-
tween the Earl of *Lincoln*, and
B. Count of Ravishment of
gard. of two Co-heirs within
age. *viz. de Anno & existen.*

T. 18. Ed. 4. Rot. 321. where-
fore one of the daughters and
co-heirs he took &c. See *H.*
16. rot. & *T. 17. Ja.* *rot.* 641.
between *H.* and *D.* s. *Gulston.*

T. 36. Eliz. *Rot.* 1914. the
like.

homage of the same *J. N.* and the same *A.* Son and heir of the said *J. Q.* within the age of 21. years to wit, of the age of ten years and no more then being; whereby the Custody of the same *A.* belonged to the same *I. N.* and the same *I. N.* the same *A.* into his possession seised, and of the same *A.* was possessed untill the same *T.* the 1. day of *January Anno* &c. 4. & *Scot.* 44. the same *A.* Son and heir of the said *I. Q.* within age as aforesaid being, whose marriage doth belong to the said *I. N.* at *C.* found took and carried away against the will of the said *I. N.* and against the peace, &c. *dam.* 1000 l. And thereupon bringeth Suit &c. And the same *T.* by *J. M.* his Attorney cometh and defendeth, &c. And saith, That he is in no wise guilty of the taking and carrying away aforesaid, as the same *I. N.* above against him doth complain. And of this he putteth himself upon the Countrey, And the same *I. N.* likewise. Therefore the Sheriffe is commanded that he cause to come here *q q; Pas.* xii. &c. At which day here came the parties &c. And the Sheriffe sent not the Writ, therefore as before the Sheriff is commanded that he cause to come here *Cra-*

stino

stino see. *Trin.* xii. &c. to recognize in form aforesaid, &c. At which day the Iury between the parties aforesaid upon the same plea was thereof respited between them here untill this day, to wit, *Oct. Mich.* then next following, unlesse the Iustices of the said Lord the King; assigned to take the Assizes in the County aforesaid, by form of the Statute, &c. upon Munday the 31. day of *July* next past at the Castle of *Exeter* in the County aforesaid, had first come. At which said *Oct. Mich.* the said Plaint was adjourned by the Writ of the said Lord the King, *de Cor. adjournamento*, here untill this day, to wit, *Mensem. Mich.* then next following. And now here at this day came aswell the said *I. N.* as the same *I. Q.* by their Attorneys aforesaid. And the same Iustices of the Assizes, before whom, &c. sent here their record in these words. Afterwards the day and place within contained before *I. F. Knight*, Chief Iustice, &c. as in other judgments, with a *tales*, who say upon their Oath, that long before the within written time, wherein the trespassse and taking away within written, is supposed to be done, to wit, the first day of *May*, *Anno Regis quarto*, the same *I. N.* was, and yet is seised of one moyety of the within written Mannour of *N. St. S.* with the appurtenances in the County aforesaid in his Demeasne as of fee. And also the same first day of *May*, the same *T. Q.* was, and yet is seised of another moyety of the said Mannour of *N. St. S.* in his Demeasne as of fee, as Tenants in common, and undevided of the same Mannour, and that manner with the appurtenances then held, and yet hold of the same Lord the King, now by Knights Service *in Capite*. And further the Iury aforesaid say upon their oath aforesaid, that the within named *I. Q. Gent.* in his life time the same first day of *May*, *Anno Regis*, 4. above said, was seised of the within written three Acres of Meadow, within written in *N. St. S.* aforesaid, in his Demeasne, as of fee, and the same three Acres of Meadow, with the appurtenances then held of the same *I. N.* and *T. Q.* as of their Mannour of *N. St. S.* aforesaid, by homage fealty and Escuage of the Lord the King of 40. s. &c. and by the rent of 16. d. every year, at the Feast of *St. M.* the Archangel, yearly to be paid. And the Iury aforesaid further say upon their oath, that the said *I. G. Gent.* so as aforesaid of the same 3. Acres of Meadow, with the appurtenances in form aforesaid, being seised of the same *I. Q.* by fraud and Covin between the same *I. Q.* and the same *T. Q.* had with the intention to defraud the same *I. N.* after the death of the same *I. Q.* of the Custody and Marriage of the within named *I. Q. Son* and heir of the same *I. Q.* then and yet being within age before the same time in which &c. to wit, the 31. day of *August*, *Anno* 4. above said of the same 3. Acres of Meadow, with the appurtenances incoffed the same *T. Q.* to hold to him and his heirs for ever. And the same *I. Q.* afterwards, and before the within written time wherein, &c. to wit, the within written 6. day of *S.* *Anno*

M. 5. and 6. P.
and Ma. rot.
333. P. against
c.

T. 30. Eliz.
rot. 644. S.
against the
like by Gardi-
an in Socage
and there rot.
641. Tr. 7. Car.
10. 1662. the
like.

Verdict.

4. &c.

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4. &c. at *N. St. S.* within written, died the same *A.* Son and heir of the same *J. Q.* within the age of 21. years, to wit, of the age of 10. years, and no more then being. And further the same Jury say upon their oath, that the same *I. N.* afterwards and before the within written time in which, &c. to wit, the within written first day of *Octob. Anno 4.* &c. at *N. St. S.* aforesaid, the same *A. Q.* the son and heir of the same *I. Q.* within age as aforesaid, being into the possession of the same *I. N.* seised, and of the same *A.* then, and there was possessed. And that the said *T. Q.* afterwards, to wit, the first day of *January, Anno 4.* &c. within written the same *A. Q.* Son and heir of the said *I. Q.* within age as aforesaid, being at *C.* aforesaid, took and carried away. And the same *A.* in the custody of the same *T.* yet detaineth against the will of the same *I. N.* as the same *I. N.* by his declaration within written, within supposeth. But whether the same taking and carrying away of the same *A. Q.* Son and heir of the same *I. Q.* being within age as aforesaid, out of the possession of the same *I. N.* by the same *T. Q.* above done, and the detention of the same *A.* in the Custody of the same *T.* against the consent of the said *I. N.* was, and in Law ought to be, adjudged a lawful caption, and abduction, and derention, of the same *A.* in Law, or not, the Jury aforesaid, are altogether ignorant, and thereof pray advice, and the consideration of the Justices and the Court here, &c. And if upon the whole matter aforesaid, by the Jury aforesaid, in form aforesaid found, it shall seem to the Justices and the Court here, that the same taking and carrying away of the same *A. Q.* Son and heir of the same *I. Q.* being within age, as aforesaid out of the possession of the same *I. N.* by the same *T. Q.* above done, and the detention of the same *A.* in law, then the Jury aforesaid, say upon their oath that the same *T. K.* is guilty of the trespassse, and taking within written, as the same *I. N.* within hath complained against him, whereupon the Jury aforesaid, being then requested by the same Justices of what age the same *A. Q.* Son and heir of the same *I. Q.* is: And if the same heir be married or no. And how much the same marriage is worth according to the true value thereof. And what damages the same *I. N.* hath sustained by occasion of the trespassse and taking within specified, say upon their oath aforesaid, that the aforesaid *A.* Son and heir of the same *I. Q.* is of the age of 10. years, and no more, and not married. And that the marriage of the same *A.* according to the true value of the same is worth 300. l. And then they assessed the damages of the same *I. N.* by reason of the trespassse, and taking of the same *A.* within written besides his costs and charges by him about his suit in this behalf laid out to 10. s. And for those costs and charges to 20. s. And if upon the whole matter by the Jury aforesaid, in form aforesaid found, it seemeth to the Justices, and the Court here, that the same taking, and carrying away of the said *A. Q.* son and heir of the same *I. Q.* being

being within age, as aforesaid out of the possession of the same *I. N.* by the same *T. Q.* above done, and detention of the same *A.* in the custody of the same *T.* against the will of the same *I. N.* was a lawful taking, carrying away, and detention of the same *A.* in Law towards, and against the same *I. N.* then the same *Jury* say upon their oath that the same *T. Q.* is in no wise guilty of the trespassse, and taking within written as the same *T.* hath above alleadged. Therefore, &c. And because the Iustices here will advise themselves of, and upon the premisses before they give judgment therein, day is given to the parties aforesaid, here untill in *Oñ. Hill.* to hear their judgment therein, because the same Iustices here thereof not as yet, &c. At which said *Oñ. Hillar.* here came aswell the said *I. N.* as the same *T. Q.* by their Atturneyes aforesaid. And because the Iustices here will further advise themselves of, and upon the premisses aforesaid, before they give judgment therein, further day is given to the parties aforesaid here untill xv. *nam. Pas.* of hearing their judgment therein, for that the same Iustices here now, not as yet, &c. Afterwards, to wit, the 8. day of *June, Anno Regis viij. and 43.* came here into the Court of the same *I. N.* by his Atturney aforesaid, and saith that he after the last contin. of the Plaint aforesaid, to wit, the 10. day of *May, Anno 8. and 43.* aforesaid, the same *T. Q.* at *N. St. S.* aforesaid died, And prayeth a writ of the Lord the King now to be directed to the Sheriff of the County aforesaid, to resummon *I. B.* and *R. Gent.* Executors of the Testament of the said *T. Q.* to hear the Record and judgment in the Plaint aforesaid, according to the form of the Statute in this case late made and provided. And it is granted to him returnable here in *Oñab. sci. Mich. &c.* And now here at this day, to wit, in *Oñab. Mich.* came aswell the said *I. N.* by his Atturney aforesaid, as the same *J. B.* and *R. S.* by the same *J. M.* his Atturney, and the Sheriff, to wit, *W. C.* Esquire, now returneth, that he by vertue of the writ aforesaid, to him directed the 10. day of *August* last past by *I. S.* and *R. I.* good Summoners caused to be resummoned, the same *I. B.* and *R. S.* that they should be here at this day to hear in form aforesaid, &c. And hereupon the same *I. P.* prayeth judgment of, and upon the verdict aforesaid, to be given him, &c.

And the same *J. B.* and *R. S.* pray licence, &c. unto *Oñab. Hill.* the same day is given to the same, *J. N.* here, &c. the caule was agreed between the parties before the following term.

T 6. *Jac. rot. 759. ff. Jur.* say upon their oath, that the same *Judgment in Ravishment de Gard.*
K. R. and *W. J.* are guilty of the trespassse, and taking aforesaid as the same *F.* above against them complaineth. And they assesse the damages of the said *F.* by occasion of the trespassse, and taking

St. de wessm. 2. cap. ref.
 awarded, 35. Anno 13.
 E. 1.

The like *H. 35. H. 8. rot.*
 107. Earl of *R.* Son and
 heir of the Countesse of
R. against *Savage.*

T. 37. Eliz. rot. 159. the
 like against an Executor
 for default.

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taking aforesaid, besides his costs, &c. to 10. l. And for those costs and charges to 10. s. And further the Jury aforesaid say upon their oath that the same *John* is married, and that the same *John* at the time of his marriage, was of the age of 16. years and no more, and within the age of twenty years. And that the marriage of the same *I. H.* was worth according to the true value thereof, 800 l. And further, the same Jury say upon their oath that the same *Io.* and *C.* are in no wise guilty of the trespass, and taking aforesaid, as they have above alleadged. Therefore it is considered that the same *F.* should recover against the same *K.* and *I. W.* for the value of the marriage of the said *I. H.* unto the same 800. l. and his damages aforesaid, by occasion of the trespassse and taking aforesaid, to 10. l. 10. s. by the Jury, &c. And also to the same *F.* at his request, &c. which said value and damages in the whole, &c. And the same *Io.* and *K. R.* and *I. W.* be taken, &c. And the same *F.* in mercy for his false claim against the same *J.* and *C.* of the trespassse and taking aforesaid, whereof the same *I.* and *C.* by the Jury aforesaid are above acquitted. Therefore the same *I.* and *C.* go thereof without day &c. s. *waller* between *Moor* and *Hussey*, the like Judgment was reversed by Writ of Errour for default of returning of pledges upon the original. See the new book of Entries, fol. 268. b. See *Coke* 9. fol. 71. b. *Hussey's Case*.

Grantee de Gard to the
Lessee for life of the Lord-
ship brings Ravishment
de Gard.

General brief and Spec.
Count. 37. *Eliz. Rot.* 159.
C. against.

Tenure.

Seisin of Ser-
vices.

T. 9. *Ja. Rot.* 1402. s. *Brownlow*, *Ebor.* *ss. Anthony Roberts* late of &c. Yeoman, was attached to answer *R. P.* of a plea wherefore *W. W.* Cozen and heir of *Isabell Wood* being within age, whose marriage belongeth to the same *R.* at *H. W.* found took and carried away against the will of the same *R.* and against the peace of the Lord the King now, &c. And whereupon the same *R.* by *I. M.* his Attorney complaineth, That whereas the same *Isab.* of late was seised of two Messuages, and two Oxegangs of Land, with the appurtenances in *H. W.* aforesaid in her demesne as of fee, and those Tenements with the appurtenances held of one *Geo.* late Earl of *Salop.* as of his Mannor of *H.* in the County aforesaid by homage, fealty, and Escuage &c. And by the Rent of 19 s. every year at the Feast of *Pentecost* and *St. Martin* the Bishop in winter by equall portions to be paid. And also by Service of making Suit to the Court of the said late Earl at his Mannor aforesaid, from three Weeks to three Weeks at the same Mannor yearly to be held. Of which said Services the same late Earl was seised by the hand of the said *I.* as by the hands of the true Tenant, to wit, of homage, fealty, and Suit of Court aforesaid, as of fee and right, and of the Escuage and Rent aforesaid in his demesne as of fee. And the same *I.* of the Tenements aforesaid, with the appurtenances in form aforesaid being seised, And the same

same *G.* late Earl of *S.* of the Mannor aforesaid, with the appurtenances in form aforesaid, being seised; the same late Earl the first day of *S. Anno Eliz.* 11. at *H.* aforesaid by his certain Indenture of bargain and sale between the same *G.* late Earl of *S.* of the one part, and *T. K.* Esquire, and *R. C.* Gent. of the other part made, and afterwards within 6 moneths then next following in the Court of the said late Queen *Eliz* the Common Bench here, to wit, at *Westminster* in the County of *Middlesex* then being according to the form of the Statute in such case made and provided, was in due manner inrolled upon Record, in consideration of a certain Summe of money to the same Earl by the same *T. K.* and *R. C.* before hand paid, bargained and sold to the same *T. K.* and *R. C.* the Mannor aforesaid with the appurtenances, to have and to hold to the same *T. K.* and *R. C.* and their heirs for ever. By pretext of which said bargain, sale, and inrolement aforesaid. And by force of a certain Act in Parliament of *H.* late King of *England* the 8th, the 4th day of *February Anno Regis.* 27. for transferring uses in possession held, made, the same *T. K.* & *R. C.* were seised of the Mannor aforesaid with the appurtenances amongst other things in their demeasne as of fee, And the same *T.* & *R.* And being so thereof seised, *I. K.* Gent. and *H. L.* Gent. by the names &c. the 4th day of *January Anno* 12. abovesaid prosecuted out of the Court of *Chancery* of the same late Queen the same *Chancery* at *Westminster* in the County of *Middlesex* then being, a certain Writ of the said late Queen *de ingressu super disseiam in le post.* against the same *T. K.* and *R. C.* &c. And thereupon a Common Recovery and Tenant of the Earl of *S.* who voucheth over *Howell*, &c. which said Recovery and Seisin thereupon in form aforesaid had, were had to the use of the same *G.* Earl of *Salop.* for term of his life. And after the decease of the same late Earl to the use of *Eliz.* late Countesse of *S.* then Wife of the late Earl, for term of her life. And after the decease of the same late Countesse to the use of *Gilbert* now Earl of *S.* and the heirs males of his body lawfully begotten. By vertue of which Recovery and force of the same Act for transferring uses into the same *G.* late Earl of *S.* was seised of the same Mannor of *H.* with the appurtenances amongst other things in his demeasne as of free Tenement for term of his life, the remainder thereof after his decease to the same late Countesse for term of her life, the remainder thereof after the decease of the said late Countesse to the same *G.* now Earl of *S.* and the heirs males of his body lawfully issuing. And the same late Earl being so thereof seised, the remainder thereof as is above limited in form aforesaid belonging, the same late Earl afterwards, to wit, the 20 day of *November Anno* 33. *Eliz.* at *H.* aforesaid dyed of such his estate therein seised, after whose death

The Lord of the Mannor bargains and sells the Mannor for money to the bargaine in fee. Inrollment of the Deed in the Common Bench.

A Common Recovery against the bargaines who vouch the bargain, or who voucheth the Common vouch.

Averment of the uses of the Recovery, to wit, to the use of the bargainor for life, remainder to the Wife for life, with a remainder in fee tayl Spec.

the

Ravishment de Gard.

The Tenant
dyeth seised
his heir with-
in age.

Tenant for
life of the
Mannor seised
of the Ward
makes her
Executor, and
dyeth.

The Executor
by deed grants
the Custody
of the heir,
and of his
Lands.

the same late Countesse into the same Mannor of *H.* with the appurtenances as in her remainder thereof entred, and was there- of seised in her demeasne as of free Tenement for term of her life the remainder thereof after the decease of the same late Coun- tessse to the same *G.* now late Earl of *Salop*, and to the heirs males of his body lawfully begotten. And the same late Countesse of the aforesaid Mannor of *H.* with the appurtenances in form afore- said being seised, the remainder aforesaid as is above limited in form aforesaid belonging. And the same *Isabell* of the Tene- ments aforesaid as aforesaid in her demeasne as of fee in form aforesaid, being seised, the same *J.* afterwards, to wit, the 21. day of *May*, *Anno Domini* 1605. at *H.* aforesaid dyed of such her estate therein seised, and those Tenements at the time of her death held of the same *C. S.* in form aforesaid, the same *W. W.* of consanguinity and heir to the same *J.* to wit, Sonne of *W.* Son of the said *I.* within the age of twenty one years, to wit of three years then being, whereby the custody of the same *W. W.* during his minority to the said late Countesse belonged, and the said *C.* the same *W. W.* into her possession had seised, and in full and peaceable possession of the same *W. W.* stood. And being so thereof possessed, the same late Countesse afterwards, to wit the 27 day of *August Anno Eliz.* 43. at *H.* aforesaid, made her Will in writing, and one *W.* Lord *C.* Executor of her said Te- stament made and ordained. And afterwards, to wit, the last day of *May*, *Anno Regni* 6. there dyed, of the Custody of the same *W. W.* in form aforesaid possessed. After whose death the same *W.* Lord *C.* took upon him the burthen of executing of the same Will, and the same *W. W.* into his possession seised, and was of the custody of the body of the same *W. W.* possessed, by vertue of the execution of the Testament aforesaid. And so being thereof the same *W.* Lord *C.* the two and twentieth day of *October Anno Ja.* 6. abovesaid at *C.* aforesaid by his certain wri- ting, which the same *Ro.* with the Seal of the same *W.* Lord *C.* sealed here in Court bringeth, whose date is the 17 day of *October Anno* 6. abovesaid granted to the same *R.* the Custody of the body and marriage of the same *W. W.* and the custody of all Lands, Tenements, and Hereditaments, with all issues and pro- fits thereof, and of every part and parcell thereof, with the ap- purtenances, to have and to hold the same Custody and all and singular the premisses, and every part and parcel thereof, with the appurtenances to the same *Ro.* his Executors and Assigns, from thence afterwards to his and their use for by and during the minority of the same *W. W.* By vertue of which grant, the same *R.* seised the same *W.* into his possession, and in full and peaceable possession of the same *W. W.* long, to wit, from the same 22. day of *October Anno* 6. abovesaid, untill the first day of *Novemb.* then next following was, which day the same *Anthony* the same *W. W.* being within age at *H.* aforesaid found took and car- ried

ried away against the will of the same R. and against the peace of the said Lord the King now, whereupon he saith, &c. damage 200 l. And thereupon he bringeth Suit, &c. And the said Anthony saith, that he is not guilty of the taking and carrying away, &c. *Note, where the writ is brought upon the Statute of Westminster. 2. Cap. as this writ is, it ought to be said in the Plea, raptu et ab ductione, because vi et Armis is not in the writ; but where the writ is vi et Armis, there in the Plea it ought to be said, de transgr. & raptu predic. &c.*

Not guilty is
pleaded by
the Defen-
dant.

*Note the
difference.*

T 30. Eliz. Rot. 1103. Some s. f. And the same J. by N. S. her Attorney cometh, &c. And saith *Adio non*, because she saith, that well and true it is, that the same I. T. was seised of the Tenements aforesaid, with the appurtenances in his demesne as of fee. And those Tenements with the appurtenances held of the same E. R. as of his Mannor of R. F. aforesaid by homage, fealty, and Escuage of the Lady the Queen of 40 s. when it shall happen 10 s. and to more more &c. And lesse lesse &c. And by the service to do Suit to the Court of the same E. at his Mannor aforesaid, and by the rent of iiij. d. ob. every year at the Feast of St. Michael the Archangel to be paid. And that the same I. T. so being thereof seised, dyed in homage of the aforesaid E. R. the same M. daughter and heir of the same I. T. being within the age of 14. years, as the same M. above against her complaineth. But the same I. further saith, That the same E. so of the Custody of the same M. being possessed before the same time in which the trespass and taking aforesaid is supposed to be done, and before the same Grant of the custody & marriage of the body of the same M. by the same E. to the said N. S. above supposed to be done, to wit, the 16th day of June, Anno Eliz. 28. at S. aforesaid granted to one G. D. Gent. the Custody and Marriage of the body of the same M. to have and to hold the custody and marriage aforesaid to the same G. and his Assigns for and during the minority of the same M. By virtue of which grant the same G. was of the Custody of the heir aforesaid possessed. And being so thereof possessed the same first day of April Anno 29. above said at S. aforesaid the body of the same M. being within age to the same Joan for the cause of nutriment and education of the same M. untill the same M. should come to her lawfull age committed and delivered, whereby the same Joan the same time in which &c. the body of the same M. for the cause aforesaid took and kept her by her, As she lawfully might. And this he is ready to verifie, whereupon he prayeth Judgment if Action, &c.

And the same N. saith, that *precludi non*, because he as before saith, that the same E. R. the same first day of M. Anno 29. above said by the same Indenture granted to the same N. S. the Custody and Marriage of the same M. together with the custody of all and Singular the Lands, Tenements, and Hereditaments, which the same E. then had, or ought to have by reason

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of the Minority of the same *M.* to have and to hold the custody and Marriage aforesaid, and other the premisses with the appurtenances to the same *M.* and his Assignes, for and during the minority of the same *M.* By vertue of which grant the same *N.* was of the land, and heir aforesaid possessed, untill the same *I.* the first day of *Aprill*, Anno 29. above said, the same *M.* being within age, whose marriage belongeth to the same *N.* at *S.* aforesaid, found took, and carried away against the will of the same *N.* and against the peace, &c. As the same *N.* above against her complained without that, that the said *E. R.* granted to the same *G. D.* the custody and Marriage of the body of the same *M.* before the said grant of the custody, and Marriage aforesaid, to the same *N. S.* by the said *E.* in form aforesaid made. As the same *I.* hath above alledged. And this, &c. Whereupon he prayeth judgment, and his damages by occasion of the trespassse, and taking aforesaid, to her to be adjudged, &c.

And the same *Io.* as before saith that the same *E. R.* granted to the same *G. D.* the Custody and Marriage of the body of the same *M.* before the grant of the custody and Marriage aforesaid to the same *N. S.* by the same *E.* above supposed to be done. As he hath above alledged. And of this he putteth himself upon the Country, &c. And the same *N. S.* likewise, therefore the Sheriff is commanded that he cause to come here, &c.

Ravishment
de Gard
brought by an
Administrator.
See the new
book of En-
tries, fol. 568.
and the old
book of En-
tries, fol. 390.
the like Count
by an Execu-
tor.

P 42. *Eliz. rot. 2120. B. R. W.* and *A.* his wife were Attached to answer *G. Lord Hunsdon* Baron, &c. Administrator of the goods and Chattels which were of *H. Lord H.* of the noble order of the Garter Knight, who died intestate, &c. of a plea wherefore the same *A. H. B.* Son and heir of *H. B.* being within age, whose Marriage to the same *H.* late Lord *H.* in his life time belonged at *N.* found, took, and carried away, against the will of the said *H.* late Lord *H.* and hinderance of the administration of the goods and Chattels aforesaid. And against the peace of the Lady the Queen now, &c. And whereupon the same *G.* to whom the administration of the goods and Chattels which were of the same *H.* at the time of his death by *A.* such a day and year at *N.* aforesaid, after the death of the same *H.* was committed by *H. B.* his Attorney complaineth that whereas the same *H. B.* the father of the same *H. B.* the Son, &c. was seised of, and in the Mannour of *K.* &c. in fee. And held that Mannour of the same *H.* late Lord *H.* as of his honour of *R.* in the county of *K.* by homage, fealty, and Escuage of the said Lady the Queen 40. s. when it should happen, &c. Seisin alleaged of Services by the late Lord *H.* the same *H. B.* the father died in homage of the said late Lord *Hunsdon*, the same *H. B.* the Son and heir of the said *H. B.* the father being within the age of 21. years, to wit, of the age of xij. years whereby the custody and Marriage of the same *H. B.* the Son to the same *H.* late Lord *H.* belonged. And the same

M. 18. Ja. rot.
2524. B. G.
Administrator
of *M.* against
Brown, and
such a Count
of Ravish-
ment de Gard.
in the time of
the intestate,
&c.

Ravishment de Gard.

same *H.* late Lord *H.* the same *H.* the Son into his possession had seised. And of the same *H.* the Son was possessed untill the same *A.* whilst she was sole such a day and year, &c. the same *H.* the Son and heir, &c. the same *H. B.* the father being within age, whose death to the same *H.* late Lord *H.* in his life time, and to the same *G.* now Lord *H.* after the death of the same *H.* late Lord *H.* to whom the Administration, &c. was committed, apperaineth at *N.* late found, took, and carried away against the will of the same *H.* late Lord *H.* to the hinderance of the administration of the goods and Chattels aforesaid, And against the peace, &c. And bringeth here into the Court the letters of Administration, &c. not guilty pleaded.

Note.

P 5. *Eliz. rot. 1337. ff. In Ravishment de Gard.* the defendant traverseth the tenure, the Jury find the tenure as the said plaintiff hath above alleadged, the same Jury being requested by the Court of what age the said *R. H.* Son and heir of the within named *I. H.* is. And if the same heir be married, how much the Marriage of the same heir is worth according to the true value thereof without fraud or deceit. And further what damages the same plaintiff sustained by occasion of the taking of the custody whereof mention is within made as in suits labours delays and expences, besides the value of the Marriage aforesaid. And if the same defendant be sufficient to satisfy to the plaintiff of the value of the marriage aforesaid, in case the same heir should be married before he be restored to the plaintiff. And also of the damages aforesaid, say upon their oath that the aforesaid heir is of the age of xvi. years and no more, but whether the same heir be married or no, say that they are altogether ignorant. And say that the marriage aforesaid, is worth according to the true value thereof, without fraud and deceit, 60. s. And they assess damages of the same plaintiff, by occasion of the taking of the custody of the body of the same *R.* besides his costs and charges by him about his suite in this behalf laid out to x. s. and for those costs and charges to 5. s. And further they say upon their oath that the said defendant is sufficient to satisfy to the same plaintiff of the value of the marriage aforesaid. Therefore it is considered that the same plaintiff recover against the same defendant the same 60. s. for the value of the marriage of the same *R. H.* in case that the same plaintiff, the same *R. H.* not being married, cannot have again, and his damages to 40. s. besides the value aforesaid, by the Jury aforesaid, in form aforesaid, assessed, and also ix. l. and 5. s. to the same plaintiff at his request for the costs and charges aforesaid, by the Court here adjudged of increase, which said damages besides the value in the whole do amount unto 10. l.

Value found.

Ravishment de Gard.

P. 5. *Eliz. rot. 617. ff. Ravishment* brought against the defendant for taking of *J. Son* and heir of the plaintiffe, issue joyned upon the tenure, the Jury say that he held, &c. As the same plaintiffe above against him complaineth. And they assesse the damages of the same plaintiffe by occasion of the taking, and carrying away within written, besides his cost, &c. to 10. l. And for those costs to 26. s. and 8. d. And the Jury aforesaid, further say upon their oath, that the marriage of the within named *J.* is worth 70. l. And that the same *J.* is within age of , and not married. Therefore it is considered that the same plaintiffe recover against the same defendant for the value of the marriage of the same *J.* if the same *J.* be married before the same plaintiffe can have him again, 70. l. And also for the value of the marriage of the same *J.* if the same *J.* be Married before the same plaintiffe can have him again, other 70. l. by the Jury aforesaid, in form aforesaid found, and also his damages by the occasion of the taking, and carrying away aforesaid, to 11. l. 6. s. 8. d. by the Jury aforesaid, in form aforesaid assessed, And if the same plaintiffe the same *J.* before he be married, can have again; the same plaintiffe shall recover against the said defendant, onely his damages aforesaid, by occasion of the taking, and carrying away aforesaid, to 11. l. 6. s. and 8. d. and also 3. l. 4. s. and 4. d. to the same plaintiffe at his request for his costs and charges aforesaid, by the Court here adjudged of increase, which said damages in the whole do amount unto 15. l. 10. s. And the said defendant be taken, &c.

Value found.

Taken.

T. 21. Ja. rot.
1836. s. Bro.
Somerf. ff. w.
against G.
Ravishment
de Gard
brought by the
Son and heir.

T. 20. *Ja. Rot. 2991. s. Brownlow, H.* against *P. Ravishment de Gard.* Wherefore *S. N.* and *P. N.* Sisters and heirs of *w.* *N.* Son and heir of *T. N.* deceased, being within age, whose Marriages do belong to the same *T. H.* at *S.* found took &c. And Count that the said *T.* the father of the same *S.* and *P.* was seised of *I. Mes.* &c. in *R.* in fee, and held them of the plaintiffe of his Mannor in the same County by Knights Service, to wit, &c. and was seised of the Services by the hands of the father, and that the father dyed in his homage the said *w.* being within the age of 21. years, to wit, of 5 years. And afterwards the said *w.* at *S.* likewise dyed in the homage of the same *T. H.* the same *S.* and *P.* Sisters and heirs of the same *w.* being within the age of 14. years, to wit, the same *S.* of the age of 9 years, and the same *P.* of the age of 5. years being, whereby the Custody and marriage of the same *S.* and *P.* belongeth to the said *T. H.* and that he was in the possession of the same *S.* and *P.* from the 20. s. 17. untill the 22. of the same moneth. And that the defendants the same day ravish &c. to the damage of the plaintiffe 200 l. And thereof brings Suit &c. the defendants say, that the said *T. N.* the father held the Lands in Soccage of another Lord, and justifie the

the ravishment of them as guardian in Socage *Causa nutritur*, And traverseth the tenure in the Count, and issue thereupon.

T. 36. *Eliz. Rot. 1903. s. Brownlow. Lincoln ss. H. Earl of L.* against *P.* and *E.* Sisters and heirs of *W. B.* Son and heir of *W. B.* deceased *quarum* &c. like Writ and like Count, issue thereupon not guilty to the Ravishment. Which see in the new Book of Entries, fol. 560.

T. 26. H. 8. Rot. 507. s. Rockwood. Cornub. ss. R. against T. such Justiciar. in Ravishment de Gard.

Recognizance.

T. 20. *Jacobi. Rot. 25. Gooch Clerk of the Errours.* Be it remembered, that the 12. day of *Pebruary* that same Term *Hen. H. Knight and Baronet, Chief Justice of the same Lord the King of the Common Bench* hath delivered here in Court by his own hands a certain Recognizance, with the Condition of the same Recognizance taken before him in the Court here to be enrolled; which followeth in these words, *London. ss. Be it remembered, that W. D. late of E. in the County of B. Esquire, J. B. of W. in the County of Essex Esq. and J. W. of S. in the County of B. Esquire, the 11th day of December Anno &c. before Henry H. Knight and Baronet, Chief Justice of the said Lord the King of the Common Bench here at his Chamber situate at Serjeants Inn in Fleetstreet, London;* and acknowledged and every one of them acknowledged himself to owe to *P. K. 208 l. of their Lands and Chattels, and of every of them to be levied &c.*

Recognizance

Entry of a Recognizance taken in debt upon a Writ of Error, upon the Statute of the 3d. of King James.

The Condition of this Recognizance is such, That whereas the above named *William D.* hath of late sued forth one Writ of Error to the above named *Sir H. H. Knight and Baronet*, directed for the certifying out of the Court of Common-Pleas into the Court of Kings-Bench, the Record and proces of a Plea and Judgment against the said *William* at the Suit of the said *P.* in a plea of debt of 100 l. as also of 4 l. which were adjudged to the same *P.* for his costs, for detaining of the said debt. If therefore the said *William* by himself or his Sufficient Attorney do prosecute the said Writ of Error with Effect, and also do satisfie unto the said *P.* (if the said Judgment be affirmed all and singular the debt, damages, and cost adjudged in the former Judgment. And also all costs and damages to be awarded for the same delaying of execution, That then this Recognizance to be void and of none effect, or else to remain and be in full strength and verue.

M. 30. & 31. *Eliz. Rot. 946. Wood* acknowledged a Recognizance of 40 l. to *H.* with Condition, to appear to an originall to be brought in an *exediorie firme*, in the Common Bench,

Recognizance.

and if the matter be found against him, that then he will render the possession.

P. 10. H. 4. Rot. 123. Buck. Oxon; w. N. s. w. of the County of Buck. the 4th day of May that same Term came here in Court that same Term in his proper person, and acknowledged himself to owe to R. w. w. w. and T. M. 500 l. sterling to be paid to the same R. w. and T. or to one of them, or to their certain Attorney at the Feast of the Nativity &c. next coming. And unlesse he shall do it &c. granteth, that the Sheriffe shall cause to be made of his Lands and Tenements unto whosoever hands &c.

And there Rot. 131. the tenor of a certain Recognizance taken in the Common Bench in the time of another King, sent into the Bench by *Mittimus*. And the Executors of the Conisee come and shew, that divers particular persons hold divers Lands of the Conisor the day of the Recognizance in the County of Berks, and hath a *Scire facias* accordingly.

H. 44. Eliz. Rot. 10. s. Coke Attorney General, s. Be it remembred, that the 5th day of February that same Term came here into the Court J. J. of T. in the County of G. Gent. and acknowledged himself to owe to the Lady the Queen now 20 l. of lawfull money of England to be paid to the said Lady the Queen her Heirs or Successors. And unlesse he shall do it, granteth that the said Summe of his Lands and Tenements to the use of the said Lady the Queen be levied unto whose hands soever they shall come.

H. 12. E. 4.
Rot. 10.

The Condition of this Recognizance is such, That whereas John T. Knight, hath sued out a Writ of Entry upon *disseisin in le post* out of the Queens Majesties Court of Chancery against the said J. J. of 8. acres of Land, and one acre of Meadow, with their appurtenances in T. in the County aforesaid. If therefore the parties in the same Writ, or any to their use, shall not do any thing which shall be hurtfull to the Queens Majestie, her Heirs or Successors by vertue of the said Recovery, nor that the Lands so recovered be holden of the Queens Majestie in Chief; That then, &c.

TRESPASSE.

H 6. Cap. Rot. 149. Browlow, Staff. fl. F. M. late &c. was attached to answer I C of a plea, wherefore with force and armes the Close of the same John at B, did break, and his Cozn and grasse to the value of 100 l. there late growing, with certain Cattle did eat up, tread down, and consume, and other wrongs, &c. And whereupon the same Jo. by S H his Attorney complatneth; that the same F. 7. Maii A. 6. with force and armes &c. the Close of the same Jo at B broke, and his cozn, to wit, Wheat, Rye, Barley, Pease, Beanes, &c. and grasse, to the value &c. there late growing, with certain cattel, to wit, horses, oxen, colves &c. did eat up, tread down, and consume, and other wrongs &c. damage 200 l. And thereupon he bringeth sute &c.

And the same Francis by I B his Attorney cometh, &c. And as to the coming with force and armes saith non culp. and hereupon he putteth himself upon the Countrey, and the said I C likewise. And as to the redoune of the trespassse aforesaid, above supposed to be done, the same Fr. saith, that the said Io A & io. non, because he saith that the Close aforesaid, and also the place wherein the trespassse aforesaid is supposed to be done. And the same time in which that trespassse was supposed to be done, were two acres of land called Black-acre in B aforesaid, and so pleads free tenement, and prayeth judgement, Si & io. &c.

A new assignment in one Close of land called R, with the appurtenances in B aforesaid, other than the said two acres of land called Black-acre, &c. And the same Defendant as to any trespassse in the aforesaid Close of land called R with the appurtenances of new assigned, above supposed to be done, saith that the said John his Action non &c. because he saith, that long before the same time, in which, &c. one Walter S Esquire was seised of the Mannor of Brewood with the appurtenances in Brewood aforesaid, whereof 1 mes. 6 acres of land, 2 acres of meadow, and 6 acres of pasture, with the appurtenances in B aforesaid, now in the occupation of the same Francis are, and the same time in which, &c. And also from the time, whereof the memory of man is not to the contrary, were parcel in his demesne as of fee; which said tenements with the appurtenances the same time in which, &c. And also by the whole time abovesaid, were customary tenements of the Mannor aforesaid, and demised, and demiseable by the copy of Court Roll of the same Mannor by the Lord of the same Mannor, or by his Steward of the Court of the same Mannor for the time being, to any person or persons whatsoever, that will or would take the same in fee simple, or otherwise, at the will of the Lord, according to the custome of the Mannor aforesaid. And the same W of the Mannor aforesaid, with the appurtenances whereof, &c. in form aforesaid being seised, the same Walter before the same time in which, &c. to wit, the first day of March, An. 4. Jac. Reg. at his Court of his Mannor aforesaid, held at the Mannor aforesaid, the said first day of March An. 4. abovesaid, by John R Gent. then Steward of the Court of the Mannor aforesaid, by copy of Court Roll of the same Mannor, granted to the same Francis the tenements aforesaid, with the appurtenances, to have and to hold to the same Francis, his heires, and assignes for ever, at the will of the Lord, according to the custome of the Mannor aforesaid. By vertue of which grant, the same Francis before the same time in which, &c. into

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the tenements aforesaid, with the appurtenances entred, and was, and yet is therof seised in his demesne as of fee, at the will of the Lord, according to the custome of the Mannor aforesaid. And the same Fr further saith, that within the Mannor aforesaid with the appurtenances is had, and from the time whereof the memory of man is not to the contrary, was had a custome, that every customary tenant of the same Mannor, have had, and by the whole time aforesaid were accustomed to have common of pasture in a certain lane, called Shute lane in B aforesaid, (to the same Close called Rakehill of new assigned, near adjoyning) for all his commonable cattel leuant and couchant, in and upon the same customary tenements every year, at all times in the year, as unto the customary tenements aforesaid belonging and appertaining. And the same Francis further saith, that the same Io, the same time in which, &c. was seised of the same Close of land called R, of new assigned in his demesne, as of fee. And the same Io, and all those whose estate the same I now hath, and the same time in which, &c. had in the same Close called R, with the appurtenances, newly assigned, from the time whereof the memory of man is not to the contrary, have used, and were accustomed to make and repair the hedges, and fences of the same Close called R. newly assigned, against the said lane, lest that the cattel of any customary tenant feeding in the lane aforesaid, out of the same lane, into the aforesaid Close of land called R, of new assigned, should enter, to do any damage there. And the same Francis further saith, that he of the customary tenements aforesaid, with the appurtenances in form aforesaid, being seised before the same time in which, &c. put his cattel aforesaid (which were then the proper cattel of the same Francis) into the lane aforesaid, called Shute lane, to eat the grasse then there growing. And because the hedges of the same Close called R. of new assigned, against the same lane, the same time in which, &c. were broken down, and insufficiently repaired, the aforesaid cattel of the same F feeding in the lane aforesaid, out of the lane aforesaid, into the same Close of land called R. newly assigned, for defect of sufficient inclosure of the same Close called R against the same lane, the same time, in which, &c. entred, and the corn, and grasse aforesaid, in the same Close of land, with the appurtenances in which, &c. newly assigned, growing, eat up, trod down, and consumed; as the same Io, above against him complaineth: which said entry of the cattel aforesaid into the said Close of land called R, of new assigned, for the cause aforesaid, is the same trespasse whereof the same Iohn above himself now complaineth. And this he is ready to verifie, whereupon he prayeth judgement, if the said Iohn his Action against him ought to have, &c.

And the same John as to the said plea of the said Fr. in barr of the new assignment above pleaded, saith, that he for any thing in the same plea before alleaged, from his Action aforesaid, of the trespasse aforesaid, in the same Close of land called R, of new assigned, done, ought not to be barred, because he saith, that the same Close called R with the appurtenances new assigned, the same time of trespasse aforesaid done, was well, and sufficiently fenced, and inclosed with hedges: and that the cattel, to wit, two heifers of the heifers of the same Francis, the same time of the trespasse aforesaid done, &c. were so fierce, wild, and unreasonable, that they would not be kept within any inclosure of hedges: and by such their fierceness, the inclosure of the same Close called R, newly assigned, did break, and the grasse aforesaid, then there growing, eat up, trod down, and consumed, as the same Iohn above against him complaineth. And this he is ready to verifie. Whereupon, for that the same Francis the trespasse aforesaid in the same Close of land, with the appurtenances newly assigned, done, a-

bobe

have acknowledged the same John prayeth judgement, and his damages by reason of the trespasse aforesaid to him to be adjudged, &c.

And as to the coming with force and armes and also the whole trespasse, besides the breaking of the Close, &c. with two horses, and four geldings, and the eating up of the grasse in the same place, &c. and also with feet walking, not guilty. And as the breaking and entrance into the close aforesaid, and the grasse aforesaid in the same close growing, with feet walking, treading down, and consuming; and of the said other grasse in the same close growing, with the same four geldings and two horses, eating, treading down, and consuming, above supposed to be done, the said G saith, that the said Henr. his action ought not, &c. because he saith, that before the same time in which, &c. one G R was seised of the Rectory of the Parish of B in the same County of D impropriate, whereof all and singular tythes of corn whatsoever, of, and from all and singular lands and tenements, within the same Parish of B aforesaid, yearly, from time to time renewing, growing, or happening the same time in which, &c. And also from the time whereof the memory of man is not to the contrary, amongst other things were parcel in his demesne, as of fee. And being so thereof seised, the same G afterwards and before the same time in which, &c. to wit, the twenty fifth day of March An. Reg. 9. at the aforesaid Parish of B aforesaid demised, the same Rectory impropriate with the appurtenances to the same S, to have and occupy to the same G and his assignes from the said twenty fifth day of March An. 9. abovesaid, for the term of one year, from thence next following; By vertue whereof the same E afterwards, and before the same time in which, &c. to wit, the twenty sixth day of March An. 9. abovesaid, into the Rectory impropriate aforesaid, with the appurtenances, entred, and was thereof possessed, for the same term of one year. And the same E saith, that one C P Gent. before the same time in which, &c. was possessed of one close of land with the appurtenances called P mead, lying, and being within the Parish of B aforesaid, before the same time in which, &c. sowed with Lentiles, and being in blades: which said close of land so sowed with Lentiles, the same time in which, &c. lyeth, and also from the time whereof the memory of man is not to the contrary, did ly near to the close of land of the same H called the Park in which, &c. and that the same Ch. the Lentiles aforesaid so in the close of the same C as aforesaid, in blades, being afterwards and before the same time in which, &c. to wit, the first day of September An. 10. abovesaid, then being harvest time, mowed, and cut down; and the same Lentiles so mowed and cut down, made, and reduced into Cocks: and afterwards the tenth part was separated and divided from the nine parts thereof, with the intention that the same E and his servants, such tenth part, so separated from the same nine parts, should take there, and carry away. And the same E further saith, that the same tenth part of the Lentiles aforesaid being so separated from the said nine parts, the same E the same time in which, &c. from the Rectory of B aforesaid, in, by, and through the close of the said Henry, in which, &c. in the usual way towards the same close of the same C called Buttey-meadow, came with the said four geldings, and two horses, the same tenth part of the Lentiles aforesaid, so from the nine parts there separated, to take and carry away from thence, and to enter into the same close of the same C to take and carry away the same tenth part of the Lentiles aforesaid, certain barres of the close of the same Henry, in which &c. separating and dividing the same close in which &c. and the same close of the same C then and there opened, and by the same barres being placed in the usual and accustomed way to carry from thence the tythes from the close of the

Count in trespasse square
Clausum fregit, and with
cattel &c. a
special justification
for carrying of tythes
by the usual
way.

same

same Ch. aforesaid, unto the Close of the same Henry, in which, &c. with his geldings and horses aforesaid entred, and in, by and through the same Close, into the same usual and accustomed way into the same Close of the said, &c. went and returned, and the same tenth part of the Lentils aforesaid, in the same Close of the said Ch. as aforesaid, being upon his Geldings and Horses aforesaid loaden, and from thence with the Geldings and Horses of the same E. aforesaid, into the same Close of the said C. in, by and through the same Close of the said H. in which, &c. in the usual way aforesaid carried away, and in going and returning in form aforesaid, in and by the same Close of the said C. aforesaid, in by and beyond the same Close of the said H. aforesaid, in which, &c. to take loaden, & carry away the same tenth part of the Lentils aforesaid, with the Geldings and Horses aforesaid, the grasse in the same Close of the same Hen. in which, &c. then growing with his feet in walking trod down and consumed, and in chase and rechasing of the Geldings and Horses, by the cause aforesaid, the same Geldings and Horses the grasse then there growing, suddenly, and against the will of the said E. did bite without any unnecessary delay there made, which said entrance into the Close of the said H. &c. and in by through and beyond the same Close, going and returning with feet walking; and the chasing and rechasing of the Geldings and Horses aforesaid, for the cause aforesaid, and the biting of the grasse aforesaid, with the Geldings and Horses aforesaid there, are the same, breaking and entering into the Close aforesaid; And the treading down and consuming of the grasse aforesaid with feet walking, and the eating, treading down and consuming of the other grasse aforesaid, with the Cattle aforesaid, whereof the same H. himself above now complaineth; & this he is ready to verifie, whereupon he prayeth judgement if the said Henry his said Action thereof against him ought to have or maintain, &c. with this that the said E. will verifie that the same time, in which, &c. there was not any other way for the same E. to carry away the tithes aforesaid from the Close of the said C. then the said usual way in this plea mentioned.

Roll Serjeant.

Inquire whether this be good issue or not.

The Plaintiff saith that the Defendant of his own wrong, without the cause, &c. did the Trespasse in the Declaration aforesaid specified. And thereupon the issue was joyned.

Calthorp.

Trespasse for chasing the Cattel of the Plaintiff.

Defendant pleads seisin in fee, and so called for damage feasant.

Defendant as to the coming with force and arms, and on whatsoever, &c. and also the whole Trespasse aforesaid, besides the taking, driving and chasing of one Heifer aforesaid, above supposed to be done, saith that he is not guilty; and as to the taking, driving, and chasing of the Heifer aforesaid, the Plaintiff ought not to have his action, because he saith that he the same Thomas, long before the same time, in which, &c. amongst other things was, and yet is seised of and in a certain Close called D. lying within the Parish called B. aforesaid, in the County aforesaid in his Demesne as of fee, and being so thereof seised, the same Thomas the same time, in which, &c. found the Heifer aforesaid in the same Close called D. of the same T. eating and treading down of the grasse then and there growing, and doing of damage there; and the same Heifer then and there took, and out of the same Close called D. into a certain Close of the said Fr. called D. in B. aforesaid peaceably gently and quietly drave and chased, as to him it was lawfull, which is the same

taking, driving, and chasing of the Heifer aforesaid, whereof the same Fr. above against him complaineth, and this he is ready to verifie, whereof he prayeth judgement if the same Fr. his action aforesaid against him ought to have, &c.

And the same Fr. P. as to the same Plea of the said Tho. as to the taking, driving, and chasing of the Heifer aforesaid, of the Cattel aforesaid, in the Declaration aforesaid, above specified, done above, in War pleaded, saith that he by any thing in the same plea before alleged, ought not to be barred from having his said Action against the same Tho. thereof; because he saith, that long before the same time, in which, &c. one Jo. D. Esquire, was seised of his Demesne, as of fee, of and in the Mannor of B. with D. with the appurtenances in the same parish of B. aforesaid, in the County aforesaid, whereof one antient Messuage, 30 acres and one rood of land, meadow and pasture, with the appurtenances are, and the same time in which, &c. And also from the time, whereof, &c. were parcel, and Customary lands of the Mannor aforesaid, and demised, and demiseable by Copp of Court Roll of the same Mannor, by the Lord of the Mannor aforesaid, or by his Steward of the Court of the same Mannor, for the time being, to any person or persons whatsoever that will or would take the same for the term of one, two, or three lives successively in possession at the will of the Lord, according to the custom of the said Mannor; and the same Jo. D. and all those whose estate the same Jo. had in the Mannor aforesaid, with the appurtenances whereof, &c. hath had for himself Tenants and Farmers of the same customary tenements, with the appurtenances, a certain way, as well for and Horse, to goe, ride, chaise and and rechase all and every his Cattel, of and from the same Messuage, with the appurtenances, parcel of the customary tenements aforesaid, with the appurtenances in and unto a certain Close of land called D. in the Parish of B. aforesaid, by the same other parcel of Customary tenements, with the appurtenances unto and beyond the same Close of the said Tho. called D. in the same Parish of B. in which, &c. And so back again to return, and rejourney, chaise and rechase his Cattel aforesaid from the same Close of land of the same Francis called D. until, in and unto the same Messuage with the appurtenances, in and beyond the same Close of land of the same Tho. called D. in the Parish of D. aforesaid at all times of the year at their pleasure, as often as it shall please them, as unto the customary tenements aforesaid, with the appurtenances belonging and appertaining. And the same I. D. of the same Mannor of C. with D. with the appurtenances whereof, and in form aforesaid being seised, the same I. D. afterwards and before the same time, in which, &c. to wit the Court of the same I. D. of his Mannor aforesaid held at the same Mannor the 17 day of Septemb. Anno 40 Eliz. by Copp of Court Roll of the same Mannor, granted the tenements aforesaid with the appurtenances to the same Fr. and W. P. and Anne P. to have and to hold the same tenements with the appurtenances to the same Fr. W. and A. for term of their lives, or the life of the longest liver of them successively at the will of the Lord, according to the custom of the same Mannor, and the same Francis further saith, that within the same Mannor is had, and from the time whereof the memory of man is not to the contrary, was and was had such a custom, that if any customary lands, or tenementary parcel of the same Mannor, were granted by the L. of the said Mannor, or by his Steward of the Court of the said Mannor, for the time being by one Copp to three persons in the same Copp named for term of their lives, or the longest liver of them successively at the will of the Lord of the Mannor, according

The Plaintiff replies that there was a way through the same Close.

This matter was not well pleaded, for that the lands of the Plaintiff and Defendant were parcel of one Mannor, and so by virtue of possessions. Therefore the Plaintiff ought to have prescribed to have a way by the custom of the Mannor, and not by prescription; but if the land had been several from the time, in which, &c. then well pleaded.

ding to the custom of the Mannor aforesaid, that then the first person in such Cope named should have and enjoy, and ought, and were accustomed to have and enjoy such customary lands and tenements by such Cope so granted to himself alone during his life; And the 2. person named in such Copehold should have and enjoy after the death of the same first person all such customary lands and tenements by such Cope, so to him granted, to himself alone, during his life: And the third person in such Cope named should have and enjoy after the death of the same first and second persons, all such customary lands and tenements by such Cope to him so granted to himself alone during his life, according to the custom of the Mannor aforesaid: By vertue of which said grant and custom of the Mannor aforesaid, the same Francis being the first person in the Cope aforesaid, named afterwards, and before the same time, in which, &c. into the tenements aforesaid, with the appurtenances entred, and was thereof seised in his Demesne, as of free tenement for term of his life, at the will of the Lord, according to the custom of the Mannor aforesaid, the remainder thereof in form aforesaid belonging: And the same Francis being so thereof seised, the same Francis afterwards, and before the same time, in which, &c. to wit the same 9 day of Septemb. in the Declaration aforesaid, above specified, chased his Heifer aforesaid, from his Messuage aforesaid, with the appurtenances, in and unto the same Close of land of the same Tho. called D. in the same Parish of B. aforesaid, nising his way aforesaid. And the same Francis farther saith, that he the same Francis afterwards and before the same time, in which, &c. to wit the 9 day of Septemb. in the Declaration aforesaid, above specified, his Heifer aforesaid out of the same Close of land of the same Francis called D. aforesaid into the same Close of land of the same Thomas in his way aforesaid chased and brought back: And from thence unto the messuage aforesaid with the appurtenances, to chase and bring back indeaboured, and as the same Francis was a chasing of the same Heifer in the way aforesaid, directly against the Messuage aforesaid, with the appurtenances, the same Thomas afterwards, to wit the same time, in which, &c. with force and arms in his own wrong, the same Heifer into the same Close of the said Thomas, in the way aforesaid, against the will of the same Francis, took, drove and chased, whereby the same Heifer was much the worse: As he hath above against him thereof complained: And this he is ready to verifie, &c. whereupon, &c.

And the same Tho. as before, saith, that he the same time in which, &c. found the Heifer aforesaid in the same Close of the said Thomas, called D. eating then grasse the there growing, and doing damage there. And the same Heifer then and there took; and out of the same Close called D. into the same Close of the same Francis, called D. in the Parish of B. aforesaid, peaceably, slowly, and quietly did drive and chase, in manner and form as the same Tho. hath above in his Replication pleaded, without that that the same I. D. and all those whose estate the same I. D. had in the Mannor aforesaid with the appurtenances whereof, &c. have had and from the time whereof the memory of man is not to the contrary, were accustomed to have for themselves Tenants and Farmers of the customary tenements aforesaid, with the appurtenances a certain way, as well foot as horse, to goe and trabel, chase and rechase all and every his cattel, from and out of the Messuage aforesaid, with the appurtenances in and unto the same Close of land called D. in the same parish of B. aforesaid, parcel of the tenements aforesaid with the appurtenances into & beyond the same Close of the same Tho. called D. in the aforesaid Parish of B. aforesaid, in which, &c. And so back again returning and journeying, cha.

chasing and and rechasing all and every his Cattel aforesaid from the same Close of land of the same Francis called D. in and unto the same Messuage, with the appurtenances into and beyond the same Close of land of the same Thomas called D. aforesaid, unto the same Parish of B. aforesaid, at all times of the year, at their pleasure, as often as they shall please, as unto the customary tenements aforesaid belonging and appertaining, in manner and form as the same Francis hath above in his replication alleged. And this he is ready to certifie, whereupon he prayeth judgement, And that the said Francis P. may be barred from having his action aforesaid, &c.

And the same Francis P. as befoze, saith, that the same I. D. and all those whose estate the same I. D. &c. (as above) until you come to the word alleged, and this he prayeth may be inquired of by the Countrey, and the Defendant likewise: Therefore the Sheriff is commanded, that he cause to come here such a return, 12, &c.

Pa plea, wherefoze with the force and arms, the Close of the same T. at the Parish of Holbeton broke, and his Cattel there found took and impounded; And them there so impounded, until the same T. a fine of 10 s. for to have their deliverance, with the same P. and I. had made, detained, and other wrongs to him, did to the great damage of the said D. and against the peace of the Lord the King, now, &c. And whereupon the same T. by E. K. his Attorney complaineth that the same P. and I. the 21 day of Septemb. Anno Regis 5. with force and Arms, &c. the Close of the same T. at the parish of Holbeton broke, and the Cattel, to wit, four Oxen, there late found, took, and impounded; and them there so impounded, until the same Thomas had made a fine of ten Shillings with the said P. and I. to have deliverance of the Cattel aforesaid detained, And other enormities, &c. to the great damage, &c. And against the peace, &c. whereupon he saith that he is the worse, and hath damage to the value of thirty pound, and thereof bringeth sute, &c.

Count in
Trespasse for
chasing of cat-
tel, whereap-
on the Defen-
dants plead
in justification
propter out of
the Exchequer

And the same P. H. and I. by F. G. their Attorney come and defend the force and wrong, when, &c. And as to the coming with force and arms, say that they are in no wise thereof guilty, and of this they put themselves upon the Countrey, and the same Thomas likewise, and as to the residue of the said Trespasse, above supposed to be done, the same P. and I. say that the same T. ought not to have his action aforesaid against them, &c. because they say that the Close aforesaid, & also befoze the same time, wherein the Trespasse aforesaid is supposed to be done, to wit in Hillary Term, Anno Regis nunc quarto, out of the Court of Exchequer of the said Lord the King, the same Court at Westminster, in the same County of Middlesex, being issued a certain writ of the said Lord the King, directed to the then Sheriff of Devon. (one H. R. knight then being Sheriff of the County aforesaid) by which writ the said L. the King to the then Sheriff, commanded that the then Sheriff should not omit for any liberty of the County aforesaid, but that he enter into it, and cause to be levied to the use of the Lord the King, all and every farm, debts, and sums of money which are due to him, as well within as without the liberties in his Bailiwick, by cause of his office mentioned, in certain Schedules to the same writ annexed; so that the same Sheriff may have those monies befoze the Treasurer and Barons of the Exchequer of the Lord the King at Westminster, out of hand, and from time to time, as they are levied to be paid into the Court of the said L. the King, And that the same Sheriff have there that writ, as by that writ moze fully appeareth, which said writ

Writ and Schedule to the same annexed, afterwards and before the same time, in which, &c. to wit in the term of St. Hillary, Anno 4. above said at Westminster aforesaid, to the same R. H. then Sheriff of the same County of Devon. were then delivered to be executed in form of Law: And the same T. and I. further say, that it was mentioned in the same Schedules, to the same writ in form aforesaid annexed, that of the tenants and Occupiers of the said Mannor of H. in the said County of Devon, and of the rent or fee-farm of the same, 8 l. yearly issuing out of the demesne lands, and Mannor aforesaid 88 l. being arrear. And by the same writ it was commanded, that the same Sheriffs should cause to be levied of the same Occupiers and tenants, or demesne lands of H. aforesaid, the same 88 l. so being in arrear, and the same P. and I. further say, that the same T. long before the purchasing of the same writ out of the same Court of Exchequer of the said Lord the King, and the same time of the purchasing thereof, and long afterwards, and also at the same time, in which, &c. was Occupier of the same Close of land above, being of new assigned, parcel of the lands of the Mannor and demesne lands of H. aforesaid, And the same Thomas so Occupier of the same Close of lands as aforesaid being, and the arrearages aforesaid in the Writ of Schedules aforesaid, to the same annexed, specified in form aforesaid, being in arrear, the same P. and I. afterwards, to wit the same 27 day of S. Jan. Reg. 25 above said, as Servant of the same H. R. Knight, then being Sheriff of the County of Devon, as aforesaid, and by his command, by virtue of the same writ to the then Sheriff as aforesaid directed at H. aforesaid, into the same Close of land above, of new assigned, being parcel of the Mannor and Demesne land of H. broke. And the same Cattel of the same Thomas, being, as aforesaid, Occupier of the same Close of land, parcel of the Mannor and Demesne lands aforesaid took, and the Cattel aforesaid impounded, and them there so impounded; until the same Thomas 10 l. to the same P. and I. in part of satisfaction of the same debt of 88 l. out of the same Mannor and Demesne lands of H. aforesaid, and to the Lord the King, as aforesaid due, had paid and satisfied, detained, as to them it was lawfull, which said 10 l. by the same T. in part of satisfaction of the same 88 l. to the same Lord the King, as aforesaid due, being paid and satisfied the same P. and I. being Servants of the same Sheriff, as aforesaid, afterwards, to wit the first day of Octob. Anno Regis 5. above said at H. aforesaid, to the same H. R. then being Sheriff of the same County of Devon. as aforesaid satisfied. And the same Sheriff afterwards in the term of St. Hilary, Anno Reg. 5. above said into the same Court of Exchequer of the said Lord the King at Westminster in the County of Middlesex, to the Treasurer and Barons of the same Exchequer, upon the opposal of the same then Sheriff in due form of Law, according to the exigency of the same writ issuing out of the same Court of Exchequer paid, which said breaking of the Close aforesaid, and taking, and impounding of the Cattel aforesaid, for the cause aforesaid detaining, are the same breaking of the Close aforesaid, and taking, detaining and impounding of the Cattel aforesaid, whereof the same T. above against them complaineth: And this they are ready to verify; whereupon they pray judgement if the T. ought to have his action against them, &c.

Henden.

And the same T. B. saith that he, for any thing before alleaged ought not to be barred from having his action aforesaid against them, &c. because he

he saith that the Close aforesaid, and also the place wherein the Trespasse aforesaid, whereof he himself above complaineth was done, were one Close of land of the same T. called Tadpool, with the appurtenances, in the same Parish of H. other than the same 20 acres of land parcel of the Mannor and Demesne lands of H. aforesaid, in the bar of the same P. and I. above specified: And this he is ready to verifie, whereupon for that the same P. and I. above answer not to the Trespasse aforesaid in the same Close of land, of new assigned, done, the same T. prayeth judgement and his damages, by occasion of the Trespasse aforesaid to him to be adjudged, &c.

And the same P. and I. as to the same plea of the same Tho. above in their replication pleaded, say, that the same T. Actio non, because they say that long before the same time wherein the Trespasse aforesaid is supposed to be done, to wit in Hilary term, Anno Reg. 4. out of the same Court of the said Lord the King of Exchequer, the same Court at Westminster in the County of Middlesex, then being issue, a certain writt, &c. And so the Defendants maintain their replication, word for word as above, to the very last. And this they are ready to verifie, whereupon they pray judgement if the same T. his Action aforesaid against them ought to have, &c.

And the same T. B. as to the same plea of the same P. and I. as to the Trespasse aforesaid, done in the same Close of land above of new assigned, in bar of the new assignment above pleaded saith, that the same plea in manner and form aforesaid pleaded, and the matter in the same contained are not sufficient in law to bar the same T. from having his action aforesaid for the Trespasse aforesaid, in the same Close above of new assigned, done against the same P. I. And that he to the same plea in manner and form aforesaid pleaded hath no need, nor by the law of the land is held to answer; And this he is ready to verifie; whereupon for default of sufficient plea of the same P. and I. in this behalf, the same Tho. prayeth judgement and damages, &c.

The Defendants joyn in demurrer; no judgement given.

H. 12. Ca Reg. rot. in the Kings Bench, Sir Tho. Mayor, Bailiffs and Commonalty of the City of Exeter, complain of I. T. in the custody of the Marshal, &c. for that that he the 28 day of April, An. &c. with force and arms, the house and close of the same Mayor, Bailiffs, and C. of the City aforesaid, called W. in the Parish of S. in the County of the City of Exon. aforesaid, broke and entred, and the grasse of the same Mayor, &c. of the City aforesaid, to the value of 20 l. then there growing, with their feet in walking trod down and consumed, and the other grasse of the same Mayor, &c. of the City aforesaid, to the value of 10 l. then there growing, with certain Cattel, to wit horses, oxen, &c. eat up, trod down and consumed, and also two hundred oaken boards, then and there found, to the value of 10 l. being the goods and chattels of the same Mayor, &c. of the City aforesaid took and carried away, And other enormities, &c. to the great damage, &c.

Count in
Trespasse by a
Corporation.

The Defendant as to the coming with force and armes, and also the carrying away of the goods and chattels aforesaid saith that he not guilty; And as to the residue of the Trespasse aforesaid, above supposed to be done, the same Defendant saith, that the same Plaintiff Actio non, because he saith that the house and Close aforesaid, with the appurtenances in which &c. are, and at the same time, in which, &c. were the soyl and free tenement of the said Defendant, by which the same Defendant the same time in which, &c. the House and Close aforesaid as the proper soyl and free-

The Defendant pleads
his free tenement.

CCCCC

te.

tenement of the same Defendant broke and entred; And the grasse aforesaid, as the proper grasse of the same Defendant in the same Close, in which, &c. as in the proper Close, soil, and free-tenement of the same Defendant then growing, with his feet in walking trod down and consumed; and there other grasse aforesaid, as the proper grasse of the same F. upon the same Close, as upon the proper Close, soil, and free-tenement of the same Defendant, then growing, with the Cattel aforesaid, eat up, trod down and consumed, as to him it was lawfull, and this he is ready to verifie, &c.

The Plaintiff
confesseth the
Frank tene-
ment, and
pleads a De-
mise before
the Defendant
had any thing
&c. and an as-
signment of
the Leale to
the Plaintiff.

And the Plaintiffs say, that they ought not to be barred, &c. because they say that well and true it is, that the House and Close aforesaid, with the appurtenances in which, &c. are, and all the aforesaid time in which, &c. were the proper soil and free-tenement of the same Defendant, in manner and form as the same lo. hath above in pleading alleged. But the same Maioz, &c. further say, that long before the same Plaintiff had any thing in the tenements aforesaid, with the appurtenances, one H. H. was seised of the Tenements aforesaid, with the appurtenances, in which, &c. in his Demesne as of fee, and being so there- of seised, the same H. before the same time, in which, &c. to wit the 16 day of October, An. 18 Ja. Reg. at the aforesaid Parish of S. in the County of the City of Exon. aforesaid, demised the tenements aforesaid, with the appurtenances, in which &c. to one Greg. S. to have and to hold to the same G. and his assigns, from the first day of November last past, unto the full end and term of 99 years, then next following, and fully to be compleat and ended, if the same G. and D. his wife, and one G. S. his son, or any of them should live so long, by vertue of which demise the same G. S. the father, afterwards, and before the same time, in which, &c. to wit the second day of November then next following, into the same tenements aforesaid, with the appurtenances, in which, &c. entred, and was thereof possessed, and being thereof possessed, the same G. S. the Father, afterwards, and before the same time in which, &c. to wit the first day of Septemb; Anno Reg. nunc primo, at the same Parish of St. S. in the City of Exon. by his certain Indenture there made between the same G. S. the father, by the name of G. S. &c. of the one part, and the same Maioz, &c. by the names, &c. on the other part, which other part, with the Seal of the same G. S. the father sealed, and Weiven to the Court here, bearing date the day and year last above said, assigned to the same Plaintiffs their Successors and Assigns, the Messuage and Courlage aforesaid, with the appurtenances, in which &c. and his whole right, estate, title, interest and term of years which he the same G. the father then had to come, of and in the tenements aforesaid, with the appurtenances, in which, &c. As by the Indenture aforesaid brought here into the Court, amongst other things more fully is manifest, and appeareth: by vertue whereof the same Plaintiffs into the Tenements aforesaid, with the appurtenances in which, &c. entred, and were thereof possessed until the same lo. T. afterwards, to wit the same time, in which, &c. into the Close and house aforesaid, in the Declaration aforesaid above mentioned, broke and entred, and the same grasse of the same Maioz, &c. then and there growing, with his feet in walking trod down and consumed: And there other grasse then and there likewise growing, with the Cattel aforesaid, eat up, trod down, and consumed, in manner and form as the same Plaintiffs above against him doe complain: And this they are ready to verifie; whereupon for that the same lo. T. the residue of the Trespasse aforesaid, above acknowledgeth, the same Maioz, &c. pray judgement, and their damages by occasion of the residue of the Trespasse aforesaid.

fozelsaid, to them to be adjudged, &c. with this that the same Maior &c. will verifie, that the same G S the father, D his wife, and G S the son, and every of them are surviving, and in full life, to wit, at the same Parish of St. S. in the same City of Exon, &c.

And the same Defendant saith, that well and true it is, that long before the same John had any thing in the tenements afozelsaid, with the appurtenances, the same H H was seised of the tenements afozelsaid, with the appurtenances in his demesne, as of fee, And being so thereof seised, the same H before the same time in which, &c. at the same Parish of St. S afozelsaid, demised the tenements afozelsaid, with the appurtenances in which, &c. to the same G S the father, to have, and to hold to the same G, and his assigns, from the first day of November, until the end and term of 59 years then next following, and fully to be compleat, and ended, if the same G S the father, D his wife, and G their son, or any of them should so long live, And that the same G the father, afterwards, and before the same time in which, &c. into the tenements afozelsaid, with the appurtenances in which, &c. entred, and was thereof possessed, as the same Maior, &c. have above by pleading, alleged. But the same Defendant further saith, that the same G the father, so of the tenements afozelsaid, with the appurtenances in which, &c. being possessed, the reversion thereof, to the same Hillary, and his heires belonging, the same G afterwards, and before the same time, &c. assigned the tenements afozelsaid, with the appurtenances in which, &c. before the same time in which, &c. to wit, the first day of November, An. &c. 22. at the Parish of St. S afozelsaid, surrendered the tenements afozelsaid, with the appurtenances in which, &c. and his whole right, estate, title, interest, and term of yeares, of, and in the tenements afozelsaid, with the appurtenances, to the same H, then being seised of the reversion afozelsaid, in form as afozelsaid. Which said surrender from the same G S the father, the same H then and there received, and accepted. By vertue of which surrender, the same H afterwards, and before the same time of the assignment afozelsaid, above supposed to be done, and before the same time in which, &c. into the tenements afozelsaid, with the appurtenances in which, &c. entred, and was thereof seised in his demesne, as of fee: And being so thereof seised, the same H afterwards, and before the same time of the assignment afozelsaid, above supposed to be made, and before the same time in which, &c. to wit, the first day of March, An. &c. 22. abovesaid, at the same Parish of St. S afozelsaid, infeoffed the same John of the tenements afozelsaid, with the appurtenances, to hold to the same John, and his heires forever. By vertue of which feoffment, the same John afterwards, and before the same time of the assignment, above supposed to be done, and before the same time in which, &c. was of the tenements afozelsaid with the appurtenances in which, &c. seised in his demesne, as of fee; And being so thereof seised, the same Jo. as before, saith, that he before the same time in which, &c. and also the same time in which, &c. into the Close, and house afozelsaid, as into the proper soyl, and free tenement of the same John, broke, and entred, and the grasse afozelsaid, as the proper grasse of the said Jo. upon the Close afozelsaid, in which, &c. as upon the Close, and in the proper soyl, and free tenement of the same John, then growing, with his feet in walking, trod down, and consumed; and his other grasse afozelsaid, as the proper grasse of the same John, upon the Close afozelsaid, in which, &c. as upon the Close and proper soyl of the same John, then likewise growing, with the cattel afozelsaid, eat up, trod down, and consumed: and the goods and chattels afozelsaid, to two hundred oaken boards, in the declaration afozelsaid, above specified, upon the tenements afozelsaid, with the

The assign-
ment trav-
ersed.

the appurtenances in which, &c. in the same time in which, &c. as afore-
said being, doing damage there, took in the name of distresse for damages
there so done, and in the common pound there impounded, as the same
John hath above by pleading alleaged, without this, that the same S.S.
the father, assigned to the same Maior, &c. and their successors, the te-
nements afore said, with the appurtenances, in which, &c. as the same Mai-
or, &c. have above in their replication alleaged. And this he is ready to
verifie. Whereupon, as before, he prayeth judgement, and that the same
Plaintiffs may be barred, &c.

The plaintiffs
maintain the
Assignment.

And the same Maior, &c. as before, say, that the same S.S. the Father,
assigned to the same Maior, &c. their successors, and assignes, the messu-
age, and courtlage afore said, with the appurtenances in which, &c. and
his whole right, estate, title, interest, and term of years, which he the said S.S.
the father, then had in the tenements afore said, with the appurtenances
in which, &c. in manner, and form, as the same plaintiffs have above al-
leaged. And this they pray may be inquired of by the Countrey, and the
defendant likewise. And hereupon the same plaintiffs say, that the She-
riff, and Coroners, and all free tenants, and inhabitants within the same
City, are Citizens, and Commons of the City afore said, and of the commu-
nalty thereof, and within the distresse of the plaintiffs afore said, and of the
body of the County of the same City: And that the town of Heavitree is the
nearest town without the City afore said; and for these causes pray a
writ of the same Lord the King, of venire facias, 12. &c. here, &c. to try
the issue afore said, of the neighbourhood of the town of H afore said, to the
Sheriff of Devon directed. And because the same John doth not gainsay
it, but doth confesse it to be true; therefore it is commanded to the She-
riff of Devon, that he cause to come before the Lord the King at Westm.
upon Monday next after the morrow of the Purification of the blessed
Mary, 12. &c. of the neighbourhood of Heavitree afore said, in the same
County of Devon, by whom, and who neither, &c. to recognize, &c. be-
cause, &c. the same day is given to the parties afore said here, &c.

Special aver-
ment that such
tenants as in-
habit within
the same city,
are within the
distresse of the
Maior, &c.
and pray a re-
fac de propin-
quiori villa.

Count in tre-
spasse for ta-
king of cattle;
&c. the de-
fendant justi-
fies by virtue
of a *levavit*.
—
cias out of the
hundred
Court.
Inquire if the
plea be good,
because the
proceedings
are not recit-
ed.

PAS. II. cap. rot. 15. The plaintiff declareth for the taking, and impound-
ing of two colves, and the detaining of them in the pound, untill the
plaintiff had made a fine with him for 50 s. and other enormities &c. and
the defendants by A.W. their Attorney warn, and defend the force and
wrong when &c. And as to the coming with force and armes, say, that
they are in no wise thereof guilty: and of this they put themselves upon
the Countrey, and the same plaintiff likewise. And as to the residue of
the same trespassse, above supposed to be done, the same defendants say,
that the said plaintiff his action ought not to have, because they say, that
the hundred of Stratton within the County of Cornwall, is an ancient Hun-
dred, and that before the same time in which, the Lord the King now
was seised of the same Hundred of S with the appurtenances as in fee,
and right, in the right of his Crown of England. And the same Lord the
King now, and all his predecessors late Kings of England, and all those
whose estate the said Lord the King now hath; and the same time in
which, &c. had in the Hundred afore said, from the time whereof the me-
mory of man is not to the contrary, have had, and were accustomed to
have a Hundred Court afore said, from three weeks, in three weeks, within
the Hundred afore said, before free suiters of the same Court to be held.
And the same defendants further say, that before the same time in
which, &c. to wit, at the Court of the said Lord the King, now of his Hun-
dred afore said, held at Stratton afore said, in the County afore said, within
that Hundred, (such a day and year) before D.P. and T.C. then free su-
ters

toys of the same Court; the same H according to the custome of the Hundred aforesaid, by the whole time aforesaid, there used, leyed, and affirmed, a certain complaint in a plea of debt upon demand, of 30 s. against the same E L. and then, and there found Pledges to prosecute his said complaint, to wit, I. Doo. and R. Roo. Upon which said complaint, so as aforesaid leyed, the same H after the appearance of the same E thereunto, in due form of law, made at the Court of the Hundred aforesaid, held at Stratton aforesaid, the 24 day of I. An. 12. Reg. nunc, before the same D P. and T G. free suters aforesaid, by declaring, complained, that the same E and W, 12. day of Iuly An. 12. at Stratton, within the Jurisdiction of the same Court, accounted between themselves, for certain things and merchandises, before that time had, and received. And upon that account the same Will. was found in arrearages towards the same W, the sum of 30 s. to be paid to the same W, at the feast of St. Mich. the Archangel then next following: whereby Action accrued to the same Will. to demand, and have of the same Edward, the same 30 s. Peberthelesse, the same Edward, although often required, the same 30 s. to the same William hath not rendred, but the same to him to render, hath gainsayed, and yet the same to render, doth gainsay; whereupon he then said, that he was the worse, and had damage to the value of 20 s. and thereof he then brought sute, &c. Whereupon afterwards, to wit, at the said hundred Court held at Stratton aforesaid, within the same Hundred, the 30. day of December An. 12. abovesaid, before I B. and I S, free suters of the same, in such manner it was proceeded in the same Court; that the same W, by the consideration of the same Court, recovered against the said E his debt aforesaid, and 33 s. and 4 d. for costs, and expences, and 2 s. and 6 d. for his damages which he sustained, by occasion of the retaining of the same debt, whereof he was then convicted; as by the Record, and proceedings thereof, remaining in the same Hundred Court, more fully appeareth. Upon which said Judgement, afterwards, and before the same time in which, &c. to wit, the 30 day of December An. Reg. 12. out of the same hundred Court held at Stratton aforesaid, before the same I B. and I S, then free suters of the same Court, by a certain precept in the nature of a certain writ of the said Lord the King, of a fieri facias, according to the custome of the same Court, from the time whereof the memory of man is not to the contrary, there used; issued, to the same L then being Bailiff of the Hundred aforesaid; and also to T T, I G, and to the same A the younger directed. By which said precept, the same Lord the King, to the same L &c. and every of them, commanded, that of the proper cattel, goods, and chattels, of the same E L to be found; within the Hundred aforesaid, they cause to be made, or one of them cause to be made, as well the said debt of 30 s. which W H in the Hundred Court of Stratton aforesaid, recovered against him, as 33 s. and 4 d. for costs and expences as 2 s. 6 d. for his damages which he sustained, by occasion of the detaining of the same debt, whereof he was then convicted. And that they should have those monyes, or one of them should have ready at the next Hundred Court, then next held, to wit, the 20. day of Ian. An. 12. abovesaid, to be held, to render to the same W for his recovery aforesaid. By vertue of which said precept, the same L and A, afterwards, and before the same next Hundred Court, and before the return of the same precept, to wit, the 9. day of Ian. An. 12. abovesaid, at Stratton aforesaid, within the Jurisdiction of the same Court, by the direction of the same William, took the same cattel of the said Edward in the declaration aforesaid, above specified. And the same cattel in the open pound aforesaid at Stratton aforesaid, impounded, and detained in

D o o o d o o

the

the same pound, untill the said Edward afterwards, to wit, the same 20 day of J. An. 12. abovesaid, at S aforesaid, 65 s. for debt, damages, costs, and expences aforesaid, by the same William in form aforesaid, recovered to the same L. in Stratton aforesaid, paid: which said 65 s. the same L. then and there paid to the same William. And afterwards, to wit, at the same, and then next Hundred Court, held there the same 20 day of J. An. 12. abovesaid, the same precept, in form aforesaid, served, and executed, into the same Court returned, As to them it was lawful, which is the same trespass whereof the same Edward above now complaineth: without this, that the same W. H. L. and A. are guilty of any other trespass, at the City of Exon, or elsewhere out of the same County of Cornwall, or otherwise, or in any other manner, or before the same 20 day of Decemb. An. 12. abovesaid, or after the return of the same precept, in the nature of a fieri facias, to the same A. as Bailiff, in form aforesaid directed. And this they are ready to verifie. Whereupon they pray judgement, if the same Ed. Action, &c.

Count in trespass for breaking the Close, and eating the corn and grass, and treading of the corn in Sheafes,

H. 11. cap. R. rot. 23. 17. ff. R. D. late of O. in the County aforesaid, peasant, was attached, to answer Anne Carter widow, of a plea, wherefore with force and armes, he broke the Close of the same A. at the Parish of B. and her Cozn, and grass, to the value 10 l. with certain cattel, eat, trod down, and consumed; and other her cozn, to the value of 80 l. there late growing with his feet in walking, did tread down, and consume; and her other cozn there being in stocks, with certain cattel, eat up, trod down, and consumed: and other enormities, &c. And whereupon the same A. by F. G. her Attorney, complaineth, that the same R. the 30 day of I. An. 9. Reg. nunc, with force and armes &c. the Close of the same A. at the same parish of O. broke, and her cozn, to wit, Wheat, Rye, Barley, &c. and her grass, &c. to the value, &c. there late growing, with certain cattel, to wit, horses, oxen, colves, &c. eat up, trod down, and consumed: and other her cozn, to wit, Wheat, Rye, &c. and grass, &c. to the value, &c. there late growing, with his feet in walking, trod down, and consumed: and her other cozn, to wit, Wheat, Rye, &c. and grass, to the value, &c. there in stocks being, with certain cattel, to wit, horses, &c. eat, trod down, and consumed, and other enormities, &c. damage 20 l. and thereupon bringeth.

The Defendant pleads the Common, and the Plaintiff makes a new assignment.

As to the trespass in walking, not guilty: and as to the residue of trespass, he pleads tender of amends,

And the Defendant, as to the breaking of the Close aforesaid, as also to the treading down, and consuming of the cozn, and grass aforesaid, with his feet, in walking in the same four acres of land above, of new assigned, above supposed to be done, saith, that he is in no wise thereof guilty, prout, &c. and of this he putteth him self upon the Countrey, and the plaintiff likewise. And as to the residue of the trespass aforesaid, in the same four acres of land above, of new assigned, above supposed to be done, the same R. saith, that the same A. her action ought not to have; because he saith, that the residue of the trespass aforesaid. in the same four acres of land above, of new assigned, above supposed to be done, was done with the cattel aforesaid, by negligence, and against the will of the same R. and that the same R. afterwards, and before the day of purchasing of the original writ of the same A. to wit, the 20 day of Apr. An. Reg. 11. at the same parish of O. offered to the same Anne 8 s. of lawfull mony of England, for, and in satisfaction for the residue of the trespass aforesaid, so as aforesaid done; which said 8 s. were sufficient amends for the same residue of the trespass aforesaid, in the same four acres of land, with the ap.

appurtenances above, of new assigned, as before said done; and that the same Anne, the said 8 s. as aforesaid offered, to receive of the same R. then and there altogether refused, and the same R. altogether disclaim to have, or make any title or claim unto, or in the same four acres of land, with the appurtenances above, of new assigned; and this he is ready to verifie; Whereupon he prayeth judgement, if action &c.

And the same Anne, as to the same plea of the said R. as to the said residue of the trespasse aforesaid, in the same four acres of land, with the appurtenances, of new assigned, done, saith, that she by any thing in the same plea before alleged, ought not to be barred from having her action aforesaid against him, &c. because she protesteth, that the aforesaid residue of the trespasse aforesaid, in the same four acres of land, with the appurtenances above, of new assigned, was not done with the cattel aforesaid, by the negligence, and against the will of the same R. protesting also, that the said 8 s. in satisfaction for the trespasse aforesaid, were not offered before the same day of purchasing of the original writ of the same Anne, as the same R. hath above alleged for plea: the same A. saith, that the said 8 s. were offered by the same R. to the said A. for a certain trespasse by the same R. with his cattel aforesaid to the same Anne, in a certain other Close of land, with the appurtenances, called the K. of the same Anne, in the parish of O. aforesaid done, without that that the same R. offered to the same A. the said 8 s. for, and in the satisfaction of the aforesaid residue of the trespasse aforesaid, in the same four acres of land, with the appurtenances above of new assigned, done; as the same R. hath above alleged; and this she is ready to verifie. Whereupon, for that the same R. the said residue of the trespasse aforesaid, in the same four acres of land, with the appurtenances above, of new assigned, done, above acknowledgeth: the same A. prayeth judgement, and her damages by occasion of the residue of the trespasse aforesaid, to her to be adjudged, &c.

And the same R. as before saith, that he offered to the same A. the said 8 s. for, and in satisfaction of the said residue of the trespasse aforesaid, in the same four acres of land, with the appurtenances, of new assigned, done, as he hath above alleged: and of this he putteth himself upon the Countrey, and the same A. likewise. Wherefore, as well to try the issue aforesaid, as the said other issue, between the parties aforesaid, above joyned, the Sheriff is commanded, that he cause to come here, such a Return, 12. &c.

And the same Defendant, as to the whole trespasse aforesaid, in the same Close of land called P. with the appurtenances, of new assigned, above supposed to be done, saith, that the said Plaintiff, *Actio non* because he saith, that before the time wherein the trespasse aforesaid is supposed to be done; and also the same time in which, &c. the same Defendant was seized in his demesne, as of free tenement, for term of his life, of one Close of land called P. with the appurtenances in the same parish of B. to the same Close of land called P. of new assigned, near, and next adjoining. And that the same Plaintiff, and all other occupiers of the same Close called P. with the appurtenances, of new assigned, for the time being, from the time whereof the memory of man is not to the contrary, have nien, and were accustomed, to make, and to repair the hedges, and fences, between the same Close of land called P. of new assigned, and the same Close called P. W. as often as, and when need should be, that the cattel in the same Close called P. W. feeding at any time,

Defendant
pleads in barr
the Plaintiffs
default in in-
closing, a-
gainst the
Close of the
Defendant.

time for defect of sufficient reparations of the hedges and fences of the same Close called P. of new assigned, to doe any damage therein, should goe out and enter; And the same Defendant further saith; that he long before the same time, in which, &c. put his Cattell aforesaid, in the Declaration aforesaid, above specified, into the same Close of land called P. V. to eat the grasse then there growing; as to him it was lawfull; and because the hedges and fences of the same Plaintiff, between the same Close called P. K. above, of new assigned, and the same Close of the same Defendant, called P. V. were in decay, and not repaired, the Cattell aforesaid in the same Close called P. V. feeding, out of the same Close into the same Close called P. K. of new assigned, the same time, in which, &c. and divers other days and times within the time aforesaid, by default of the same Plaintiff, went out, and entered; And the cozn and grasse aforesaid there then growing, did eat, tread down and consume, whereby the same Defendant the same time, in which, &c. into the same Close of land called P. K. entered, and the Cattell aforesaid out of the same Close called P. K. chased, that the same Cattell should not doe further damage to the Plaintiff there, which is the same Trespasse in the same Close of land called P. K. of new assigned done, whereof the same Plaintiff now complaineth: And as to the whole Trespasse aforesaid in the same Close of land called P. K. with the appurtenances above of new assigned, above supposed to be done, the same Defendant saith that the same Defendant Actio non, because he saith that before the same time, in which, &c. one E. L. was seised of one Messuage called B. and 33 acres of land, with the appurtenances in the Parish of B. aforesaid, in his Demesne, as of fee; And the same E. and all those whose estates the same B. had in the same Messuage, and 33 acres of land, with the appurtenances, for himself his farmers and Tenants of the same tenements with the appurtenances for the time being, from the time whereof the memory of man is not to the contrary, had and were accustomed to have Common of Pasture in a certain peece of pasture called T. with the appurtenances in the Parish of B. for all their Cattell in and upon the tenement aforesaid, with the appurtenances, levant and couchant every year at all times of the year as unto the tenements aforesaid, with the appurtenances belonging. And the same E. so of the same Messuage and 33 acres of land, with the appurtenances above, in form aforesaid being seised, the same E. before the same time, in which, &c. to wit such a day and year, demised to the same Plaintiff the tenements aforesaid, with the appurtenances, to have and to hold to the same Plaintiff and his assigns, for term of his life: By vertue of which demise the same Defendant was, and yet is thereof seised in his Demesne as of free tenement, for term of his life, and the same Defendant further saith, that the same peece of Pasture called T. doth lie, and at the same time, in which, &c. did lie near and next adjoining to the same Close of land called P. above, of new assign'd. And that the same Plaintiff, and all other occupiers of the same Close called P. of new assigned, with the appurtenances for the time being, from the whole time, whereof the memory of man is not to the contrary, have used, and were accustomed to make and repair the hedges and fences between the same Close of land called P. with the appurtenances above, of new assigned, and the same peece of Pasture called T. so often as it should be needfull; unlesse the Cattell of any person in the same peece of pasture called T. put to common, at any time, for defect of reparation of the hedges and fences aforesaid of the said Close called P. of new assigned, out of the same peece of Pasture called T. into the same Close of land called P. of new assigned, to doe any damage there, should goe out and enter;

And

The Defendant pleads defect of inclose against one piece of land, wherein the Defendant ought to have Common, &c.

And the same I. of the same Messuage, and 33 acres of land, with the appurtenances, in form aforesaid being leased, the same Defendant, before the same time in which, &c. put the Cattel aforesaid in the Declaration aforesaid above specified, then being the Cattel levant and couchant, upon the tenements aforesaid, with the appurtenances in the same piece of Pasture called T. to eat the grasse then there growing, using the Common therein, as to him it was lawfull; And because the hedges and fences of the same Plaintiff between the same Close of land called P. above, of new assigned, and the same piece of pasture called T. with the appurtenances, were broken, and not repaired, the same Cattel of the same Defendant, in the same piece of Pasture call'd T. as aforesaid feeding, coming out of the same piece of Pasture called T. into the same piece of land called P. above, of new assigned, the same time, in which &c. & at others other days & times within the same time, in defect of the same Plt. went out & entred, and the Corn and grasse aforesaid then there growing, did eat, tread down, and consume, whereby the same Defendant the same time in which, &c. into the same Close called P. above, of new assigned, entred, and his said Cattel out of the same Close chased, that the same Cattel should doe no further damage to the same Plaintiff there; which is the same trespasse in the same Close of land called P. above, of new assigned, whereof the same Plaintiff above now complaineth. And this he is ready to verifie, &c.

And the same R. by I. R. his Attorney cometh, &c. And as to come with force and armes, and also the whole Trespasse aforesaid, besides the eating, treading down, and consuming of the grasse aforesaid with four horses, not guilty; And of this he putteth himself upon the Country, and the same Plaintiff like wise; And as to the residue of the Trespasse aforesaid, above supposed to be done, the same Defendant saith, that the same Plaintiff his action ought not to have, because he saith, that the same time in which, &c. to wist, such a day and year, one M. P. was possessed as well of the same Close called P. as of the same Close called S. with the appurtenances in B. aforesaid, next adjoining to the same Close called P. for divers years at the same time, in which, &c. then to come; And being so thereof possessed, the same M. the day & year, &c. at B. aforesaid demised the same Close called P. in which, &c. to the same Plt. for term of 3 years then next following, with liberty to cut & make hedges between the same Close called P. in which, &c. & the same Close called D. with liberty of ingreiss, egreiss, and regreiss in & through the same Close called P. in which, &c. for the better making of the hedges aforesaid & for carrying away the wood from thence coming to the same M. & his servants excepted & reserved; By vertue whereof the same, R. as servant of the same M. and by his command, the same time, in which, &c. to cut and make the hedges aforesaid, & to use the liberty of the same Close, into the same Close called P. entred and cut the hedges aforesaid, and the wood thereof coming, with the same 4 horses of the same M. took and carried away; And in coming to cut and make the hedges aforesaid, in the same Close called P. in which, &c. and taking and carrying away of the wood aforesaid, with the same 4 horses the grasse there with their feet treading, and the said other grasse with the same 4 horses in going & returning, snatchingly did eat, tread down, and consume, as to him it was lawfull, which are the same breaking and entring into the said Close called P. & of the grasse aforesaid with feet walking the treading down & consuming, & of the said other grasse, with the Cattel aforesaid eating, treading down and consuming, and the cutting of the hedges aforesaid, and the taking and carrying away of the wood thereof coming, whereof the same Plaintiff against the same Defendant above complaineth the Trespasse aforesaid,

Defendant justifies the breaking of the Close and land with 4 horses, and the cutting of the hedges, and carrying away of the wood by vertue of an exception in the demise at the time of the making thereof, the Defendant justifies as servant.

for the cause aforesaid, by the time aforesaid, continuing, And this, &c. whereupon, &c.

And the Defendant as to any Trespass in the tenements aforesaid, with the appurtenances above newly assigned, above supposed to be done, saith, *Actio non*, because he saith that one Io. S. Knight, long before the same time, in which, &c. was seised of the Mannor of L. in the County aforesaid, whereof the tenements aforesaid with the appurtenances newly assigned are; and from the time whereof the memory of man is not to the contrary, until the 11th. day of I. An. Reg. 17. were parcel in his Demesne as of fee; And that the tenements aforesaid, with the appurtenances newly assigned, from the whole time aforesaid were customary tenements of the Mannor aforesaid, and demised and demisable by the Copp of Court Roll of the same Mannor, by the Lord of the Mannor, or by his Steward of the same Court of the Mannor aforesaid for the time being, to any person or person whatsoever that wist or would take the same for term of one or two lives in possession, and of one life in Reversion, at the will of the Lord, according to the custom of the same Mannor; And the same Io. S. of the same Mannor, with the appurtenances, in which, &c. in form aforesaid being seised before the same time in which, &c. to wit at the Court of the same Io. S. held at his Mannor aforesaid, at the same Mannor the 6 day of July, Anno 17. Eliz. Regin. abovesaid, by Copp of Court Roll of the Mannor aforesaid, granted to the same S. the reversion of the tenements aforesaid with the appurtenances newly assigned, to have and to hold the same Reversion to the same S. for term of his life, at the will of the Lord, according to the custom of the Mannor aforesaid, after the death, surrender, or forfeiture of one Io. W. and Io. his wife, which said Io. and Johan. then held the same tenements aforesaid, with the appurtenances newly assigned, for term of their lives, and the life of the longest liver of them, at the will of the Lord, according to the custom of the Mannor aforesaid; By vertue of which demise, by copy of Court Roll of the Mannor aforesaid to them before then, according to the custom of the Mannor aforesaid made, by vertue of which grant, the same S. was seised of the Reversion aforesaid, with the appurtenances, newly assigned, as of free-tenement for term of his life, at the will of the Lord, according to the custom of the Mannor aforesaid; And the same G. being so thereof seised, the same Io. W. and Io. before the same time, in which, &c. at L. aforesaid died, after whose death, and before the same time, in which, &c. the same G. into the tenements aforesaid, with the appurtenances, of new assigned, entered, and was thereof seised in his Demesne as of free-tenement for term of his life at the will of the Lord, according to the custom of the Mannor aforesaid: And the same Will. Warman claiming the tenements aforesaid, with the appurtenances, newly assigned, by colour of a certain writing of demise to him thereof made for term of his life, by the same Io. S. long before the reversion of the same reversion of the tenements aforesaid, with the appurtenances, of new assigned, to the same G. by the same Io. S. in form aforesaid made; Whereas nothing of the tenements aforesaid, in the possession of the same William by the same writing ever passed, into the Tenements aforesaid, with the appurtenances, newly assigned, before the same time in which, &c. entered, Upon the possession of which said William thereof, the same G. afterwards, to wit, the same time in which, &c. into the tenements aforesaid, with the appurtenances, re-entered, and the close and house

house aforesaid, in the tenements aforesaid, with the appurtenances, newly assigned, broke, and the grasse aforesaid then there growing, with the Cattel aforesaid by the time aforesaid, did eat, tread down and consume; And the same other grasse there likewise then growing, with feet walking did tread down and consume, as to him it was lawfull: And this he is ready to verifie, whereupon he prayeth judgement, if Action &c.

T. B. late of W. in the County aforesaid, Gent. W. M. &c. and W. G. &c. were attached to answer T. M. of a plea, wherefore with force and armes, the Close of the said T. M. at the Parish of W. broke, and his grasse, to the value of 40 s. there late growing, with their feet in walking did tread down and consume; And other his grasse, to the value of 40 s. there late growing, with certain Cattel, did eat, tread down, and consume; and divers cocks of hay in cocks for tithes to the same Tho. Bennet by the same Tho. Merchant from 9 parts set forth upon the grasse of the same T. M. there scatteringly spread abroad and put, whereby he the said Tho. M. the whole benefit and profit of his grasse under the hay aforesaid, so scatteringly spread abroad, and put by, a long time lost, And other enormities, &c. damages, 10 l. &c.

Trespasse for spreading abroad of hay set forth for tithes upon the grasse, &c.

And the same Tho. B. VV. and VV. as to the whole Trespasse aforesaid in the same Close of Meadow, with the appurtenances above, of newly assigned, besides the breaking of the Close aforesaid, and treading down and consuming of the grasse aforesaid with feet walking, and the eating, treading down and consuming of the grasse aforesaid, with horses and oxen, so scatteringly spread abroad, and put 95 of the cocks of the same 100 cocks of hay upon the grasse in the same Close of Meadow, with the appurtenances above, newly assigned above supposed to be done, not guilty pro ut, &c. And of this they put themselves upon the Country, and the same T. M. likewise; And as to the breaking of the Close aforesaid, and the treading down and consuming of the grasse aforesaid with feet walking: And the depasturing treading down and consuming of the said other grasse with horses and oxen, and the scattering abroad, and putting of the same 95 cocks of hay of the same 100. cocks of hay upon the grasse, in the same Close of Meadow, with the appurtenances above, newly assigned, above supposed to be done; The same T. B. VV. and VV. say, that the said T. VV. ought not to have, &c. because they say that long before the same time wherein the same Trespasse is supposed to be done, one H. H. Clerk, Chaunter of the Chauntry of the Cathedral Church of Salisbury, was seised of the Rectory appropriate to Westbury in the County aforesaid, in his Demesne, as of fee, in the right of his Chauntry aforesaid; And being thereof seised, the same H. before the same time, in which, &c. to wit, the 18 day of June An. Reg. 3. at the Parish of VV. aforesaid by his certain Indenture, between the same H. of the one part, and the same T. B. of the other part made, with the Seal of the same H. sealed, the same T. B. W. and VV. here in Court bring, whose date is the same day and year, demised to the same T. B. the Rectory, and those tithes, with the appurtenances, together with all and singular tithes to the same Rectory belonging. To have and to hold the Rectory and tithes aforesaid, with the appurtenances, to the same T. B. and his assigns, for and during the natural lives of the same T. B. and Eliz. M. daughter of T. M. late of the City of B. Merchant, deceased, with whom the same T. B. shortly after intended to marry, and of T. B. Son of T. B. and for the natural lives, and life of the longest liver of them same T. B. Eliz. and

Custom pleaded to scatter the rich grass upon the Meadow, &c. well pleaded by Ser. Henders and Lawrence Clerk.

T. B.

T. B. By vertue of which demise, the same T. B. now Defendant, into the Rectory aforesaid, with the appurtenances, before the same time, in which, &c. entred, and was, and yet is thereof, and of the tithes to the same Rectory, as aforesaid belonging, seised in his Demesne, as of free tenement, for term of his life; And the same T. B. now Defendant, W. and W. further say, that the same Parish of W. aforesaid, is an antient Parish, and that all the tithes of hay within the same Parish, bounds, limits, & tithable places of the same parish yearly renewing, coming or hapning to the Rectory of the Rectory appropriate aforesaid, for the time being, or his Farmer or Deputy of the same Rectory, and of the tithes thereof for the time being, from the time, whereof the memory of man is not to the contrary, were payable and paid: And also that within the same Parish is had; And from the time, whereof the memory of man is not to the contrary, was had a certain laudable custom, there used and approved, to wit, that when any one, any of the Meadows lying and being within the Parish aforesaid, the bounds, limits, and tithable places of the same Parish at mowing time shall mowe, then such occupier the whole grasse so mowed, into little cocks of grasse, for the just and equal separation, and setting out the tenth part of the same grasse from the 9 parts residue, made; And every tenth cock of the same cocks in places in and upon such Meadow, wherein such cocks as aforesaid are made, for the tithes of the whole grasse as aforesaid mowed should be left to the use of the Rectory of the Rectory appropriate aforesaid, or his Farmer or Deputy of the same Rectory, or of the tithes thereof for the time being, by such Rectory, or Farmer or Deputy to be made into hay; And by the same Rectory, or Farmer, or Deputy to be taken and carried away; And that the Rectory of the Rectory appropriate aforesaid, or his Farmer or Deputy of the same Rectory, or of the tithes thereof for the time being, and his servants by the whole time aforesaid, into such Meadow, within the Parish aforesaid, the bounds, limits, and tithable places of the same Parish, as aforesaid, lying and being, entred, and those tithe cocks as aforesaid, made and left for tithes, for the making of the same grasse Cocks into hay, the same cocks reasonably spread abroad, and scattered in the same Meadow, in and about the places where such cocks as aforesaid were left, and there turned, and suffered to lie dispersed, until the grasse of the same cocks, so dispersed and spread abroad was made into hay, and that hay into cocks brought and composed: And the same T. B. W. & W. further say, that the same T. M. being occupier of the same Close of Meadow, with the appurtenances above, of new assigned, before the same time, in which, &c. to wit the 27 day of 1. at mowing time, An. 7. aforesaid, the grasse in and upon the same Close of meadow of new assigned, then growing mowed, And the whole grasse so mowed into little cocks of grasse, for the just and equal separation of the tenth part of the same grasse, from the 9 parts residue, made; And every tenth cock in the whole amounting unto the same cocks, and no more, in places in and upon the same Close and Meadow, in which such cocks were made for the tithes of the whole grasse aforesaid, as aforesaid mowed, left to the use of the same T. B. now Defendant; then and yet Rectory of the Rectory appropriate aforesaid, as aforesaid being, by the same T. B. and his servants to be made into hay, and by them to be taken and carried away, whereby the same T. B. now Defendant of the Rectory aforesaid with the appurtenances in form aforesaid being seised in his own right; And the same VV. and VV. as the Servants of the same T. B. and by his command afterwards, to wit the 28 day of June, Anno 7. aforesaid, into the Close of meadow with the appurtenances above newly assigned, with feet

walking through a certain Gate, in the hedges of the same Close erected, then being open, entred, and unto the grasse cocks of the cocks into hay, according to the custom aforesaid, the same cocks there spread abroad, in and about those places in the same Close of meadow, as aforesaid, were left there turned, and suffered to lie until the grasse of those cocks so spread and turned was made into hay; And the same hay there brought and made into cocks; And that for the taking and carrying away of the same hay so made into cocks, the same T. B. now the Defendant of the Rectory and tithes aforesaid, so as aforesaid being seised in his own right; and the same W. W. as servants of the same T. B. and by his command the same time, in which, &c. to wit the 28 day of J. Anno 7. abovesaid, with their set went and walked, driving two horses and four oxen, drawing a certain Cart of the same T. B. now the Defendant unto the same Close of meadow above, of new assigned, and into the Close by the gate aforesaid then being open, entred, in form as aforesaid, and driving the same two horses and 4 oxen unto the same cocks of hay, by them as aforesaid made up and composed in the same Close of meadow, being without delay made; And the same cocks so soon as could conveniently, put into the Cart aforesaid; and the same Cart with the same cocks did load; And afterwards the same Cart was so loaded, the same T. B. now the Defendants, W. and W. the same 2 horses, and four oxen, the Cart aforesaid, in form aforesaid being loaded, drawing without delay made out of the same Close of new assigned, by the gate aforesaid returned, as to them it was lawfull. And that the same T. B. W. and W. in going and walking unto the several grasse cocks aforesaid; for the tithes as aforesaid left to make the same grasse cocks into hay; And in making of the same hay; And also in driving and redriving of the same two Horses and Oxen, the Cart aforesaid, as aforesaid drawing into the same Close of meadow, with the appurtenances, of new assigned, for the cause aforesaid, the grasse aforesaid then there growing, with their feet trod down and consumed; And the same two horses and four oxen the Cart aforesaid drawing in manner and form aforesaid, driven and redriven the same other grasse in the same Close of meadow then growing against the will of the same T. B. W. and W. but a little, and smatchingly did eat, tread down, and consume, which said several entries of the same T. B. W. and W. into the same Close of meadow, with the appurtenances above of new assigned: And which said treading down and consuming of the grasse aforesaid, with their feet walking, and the biting, treading down and consuming of the other grasse aforesaid, with the same 2 Horses and 4 Oxen: and which said spreading abroad, & turning of the tithe grasse aforesaid, in the same Close of meadow, with the appurtenances above, of new assigned, in form, and for the cause aforesaid done, are the same Trespasse as to the breaking of the Close aforesaid, and treading down and consuming of the other grasse aforesaid with Horse and Oxen: And also the spreading abroad, and putting of the same cocks of hay upon the grasse aforesaid in the same Close of meadow of new assigned, whereof the same T. M. above himself complaineth; And this they are ready to verifie, whereupon they pray judgement if the same T. M. his action, &c.

Wherefore with force and armes the Close of the same R. at T. broke, and his grasse, to the value of 100 s. there late growing; with certain Cattel, did eat, tread down, and consume; And his other grasse to the value of 40 s. there likewise growing, with his set in walking, did tread down and consume, and other enormities, &c. dam. fo l.

Common-bar pleaded, and the Plaintiff makes a new assignment

E f f f f f

in

Count in
Trespasse with
Cattel.

The Defen-
dants pl ad
bar, that the
Plaintiff ought
to repair his
fences toward
the high way,
and for want
thereof, a cow
being chased
in the same
way, escaped
into the same,
which is the
same trespass,
&c.

in a certain close, &c. and the same lo. as to the whole trespass, not gill-
ty, &c. and this, &c. and the plaintiff likewise. And as to the breaking of the
Close aforesaid, in the same Close above of new assigned, and of the same
grasse growing in the same Close, with the cow aforesaid, the eating,
treading down, and consuming, above supposed to be done, the same
I. saith, that the same R. his Action ought not, &c. because he saith,
that long before the same time in which, &c. and also the same time
in which, &c. the same Ro. was seised, as well of the same
Close of land above of new assigned, in which, &c. as of a cer-
tain other Close in T aforesaid, called the P. to the same Close of land
above of new assigned, in which, &c. near adjoining, in his demesne, as
of fee. And that the same Close called the P. near adjoyneth to the Kings
way, leading from the town of T. unto the parish of B. in the County a-
foresaid. And the same R. so of the same Closes, with the appurtenances,
in form aforesaid, being seised, the same Ro. and all those whose estate the
same Ro. hath, and the same time in which, &c. had in the same Close cal-
led the P. with the appurtenances, from the time whereof the memory of
man is not to the contrary, have used, and were accustomed sufficiently
to inclose the same Close of land called the Park, with hedges, and ditches
towards the same Kings way, leading from the same town of T. unto the
same parish of B. aforesaid, unless that any ones cattel being forced, or
driven in the same way, into the same Close called the Park, out of the
same way, should go into. And the same R. of the same Closes with the
appurtenances, in form aforesaid, being seised, the same J. afterwards,
and before the same time in which, &c. to wit, the same 20 day of June,
An. 8. aforesaid, commanded one K. l. then, and yet the servant
of the same lo. to drive the Cow aforesaid, from a certain messuage, in
the town of T. aforesaid, unto a certain Close of land of the same I. called
the H. in T. aforesaid, there to pasture; and the same cow in forcing, and
driving the same cow out of the same Close of land of the same lo. called
the H. aforesaid, from the same K. out of the Kings way, leading to-
wards the same Close of the said lo. called the H. aforesaid, against the
will of the said K. escaped: and into the said Kings way, leading from
the same town of T. aforesaid, towards the same parish of B. a-
foresaid, (the Close called the Park near lying, run into;) and so that
the hedges, and fences of the same Close called the P. to the Kings way,
near, as aforesaid adjoining, being broken, and open, the same cow, the
same time in which, &c. out of the same Kings way, into the aforesaid
Close called the P. for default of sufficient inclosure of the same, broke,
and from thence, into the aforesaid Close of the same Ro. above newly
assigned, broke, and entred; and the same Ro. then, and there the same
cow immediately followed, and the same cow out of the same Close above
of new assigned, into the same other Close of the same R. called the Park
chased, and from the same Close, into the Kings way, drove: And the
same lo. saith, that the cow aforesaid, in his declaration aforesaid, in his
declaration aforesaid, in the same Close above, of new assigned, in
which, &c. and in her driving aforesaid, out of the same Close above, new-
ly assigned, the grasse aforesaid, in the same Close above, of new assign-
ed, in which, &c. growing casually, and snatchingly, against the will of
the same lo. sparingly did bite, which said entrance of the cow aforesaid,
into the same Close above, of new assigned, and in, through, and beyond
the same close, excursion, and evading, and out of the same Close, the
driving, and returning, and also the casual biting of the grasse aforesaid,
with the cow aforesaid, in form aforesaid, and for the cause aforesaid, are,
the same breaking of the Close aforesaid, above, of new assigned, in
which

which, &c. and of the grasse aforesaid, in the same Close growing, the eating, treading down, and consuming whereof, the same R. above, a-
gainst him complaineth; and this he is ready to verifie. Whereupon he
prayeth judgement, Si actio.

The Plaintiff replieth, that the Defendant with force, and armes, &c.
demur. pr. and traverfeth, Without this, that the same hedges, and fer-
ces in the same Close called the P. near adjoining to the Kings way,
the same time in which, &c. were broken, &c. prout, &c. Therefore
12. &c.

The traverse
is nought, for
it ought to be,
without this,
that the cattel
aforesaid, for
default of in-
closure, into
the same close
in which, &c.
entred, &c.

V. H. Gent. Was attached, to answer R. B. of a plea, wherefore
with force and armes, the Close of the same R. at F. broke,
and his grasse to the value of 10 l. there late growing, with certain cattel,
did eat, tread down, and consume; and his other grasse, to the value of a
100 s. there late growing, with his feet in walking, did tread down, and con-
sume, & also upon the same R. then, and there made an assault, and him did
beat, wound, and evil intreat, so that he despaired of life; and also his
hedges there did cast down, and other enormities, &c. And whereupon the
same R. by F. G. his Attorney, complaineth, That the said W. the 30 day
of December, An. Regis nunc 7. with force and armes, &c. the Close of the
same R. at F aforesaid, broke, and his grasse, to the value &c. there late
growing, with certain cattel, to wit; horses, &c. did eat, tread down, and
consume; and also his other grasse, &c. Pedibus ambuland. and also upon
the same R. there made an assault, and him did beat, wound, and evil in-
treat, so that he despaired of life; and also the hedges, to wit, 100 per-
ches of his hedges, there cut down; and other enormities, &c. dama-
ges, 40 l. &c.

Count in tre-
spasse, for cut-
ting the hedg-
es, and eating
the grasse wth h
cattel, and as-
saulting the
plaintiff.

And the Defendant, as to the coming with force and armes, and also
the assault, beating, wounding, and evil handling aforesaid, in the declara-
tion aforesaid, above specified, not guilty, prout, &c. and as to the residue
of the trespasse, Common barr.

The plaintiff assigns the trespasse in a Close of land containing by es-
timation three acres, called the Spibole acres, in P. aforesaid, late parcel,
and late out of a certain great field, or Close of land, with the appur-
tenances, called the Bromfield, there with hedges and ditches included,
and separated.

And the same Defendant as to the whole trespasse aforesaid, in the
same Close of land called the middle three acres, parcel, and late out of
the great field called the Bromfield. with the appurtenances there, with
hedges, and ditches included, and separated, above newly assigned, above
supposed to be done; besides the breaking of the Close aforesaid, and the
eating, treading down, and consuming of the grasse aforesaid, in the same
Close growing with the cattel aforesaid; and also the treading down, and
consuming of the other grasse aforesaid, with his feet in walking and also
the cutting down of the hedges aforesaid, in the Declaration aforesaid a-
bove specified, the same VV saith that he is not guilty pro ut, &c. And of
this he putteth himself upon the Country; and the same R. likewise; and
as to the breaking of the Close aforesaid, above newly assigned, and the
eating treading down and consuming of the grasse aforesaid, with the
Cattel aforesaid, and of the same other grasse, with feet walking, tread-
ing down and consuming; And also the cutting of the hedges in the same
Close newly assigned, above supposed to be done, the same VV. saith A-
ctio non, because he saith that long before the same time in which, &c.
one R. late Earl of B Lord R. was seised in his Demesne, as of fee and
right, of and in one Capital messuage with the appurtenances, and of and
in

in one Warren to the same messuage adjoining, containing by estimation 200 acres of land, whereof the same Close above, of new assigned, was parcel, and of and in certain several Closes of land, with the appurtenances, to wit, of one acre of land, &c. with the appurtenances in the Parish of F. in the County of Devon. And of and in one Close of meadow, called C. meadow, containing by estimation 24 acres of meadow, with the appurtenances; And being so thereof seised, the same E. late Earl of B. afterwards, and before the same time in which, &c. to wit, the 2 day of March, Anno 4. Ja. at F. aforesaid, in the County aforesaid, by his certain Indenture made between the same E. by the name of E. Earl of B. Lord R. of the one part; and the same W. by the name of W. H. Servant of the said Earl, on the other part, which other part, with the seal of the same Earl of B. sealed, the same VV. here in Court bringeth, whose date is the same 2 day of M. Anno 4. abovesaid, especially for and in consideration, &c. And so recte the Indenture word for word: As by the same Indenture is more fully manifest; And the same W. farther saith, that the same time of the making of the Indenture aforesaid; And before the same time, in which &c. the same way from the same messuage, house, or tenement unto the same lane, and from the same lane, unto the same part of the Warren aforesaid adjoining, to the several Closes aforesaid, called M. VV. C. P. and H. P. aforesaid, in by and through the same part of the Warren aforesaid, unto the same Close called C. meadow aforesaid belonged, remained, and appertained to the same messuage, house, or tenement aforesaid, from the time of the demise aforesaid, to the same Wil. in form aforesaid belonging, was reputed, accepted, adjudged and known as part, parcel, member, & belong in & unto the same messuage, house, or tenement unto the same Close called Channor meadow aforesaid, and then was and yet is the next and most convenient way from the same messuage, house, or tenement unto the same Close of meadow called The Middle three above, wherein the trespass aforesaid is supposed to be done at the time of the making of the Indenture aforesaid, was parcel of the Warren aforesaid, to the same way from the messuage, house or tenement unto the same Close of meadow called meadow, in manner and form aforesaid demised, lay and was. And the same VV. further saith, that after the demise aforesaid to the same VVilliam, in form aforesaid made, and before the same time, in which, &c. to wit the 3 day of Decemb. Anno 10. Jac. at F. aforesaid, the same Eliz. N. died, after whose death the same VV. into the same messuage, house, or tenement aforesaid, and Close of Pasture aforesaid, with the appurtenances entered, and was thereof possessed; By vertue of which demise the same VVilliam, so of the messuage, and Close of Pasture called Ch. meadow being possessed, the same VVilliam, the same time, in which, &c. from the messuage, house, or tenement aforesaid into the same lane, to the same messuage adjoining; and by and beyond the same lane, unto the same part of the Warren adjoining, to the several Closes aforesaid, and by and beyond the same part of the Warren aforesaid, unto the same Close called the middle three acres, above newly assigned, late parcel of the Warren aforesaid, adjoining to the same Close called Herring peece entered, using his way aforesaid, and in, by, and beyond the same Close, newly assigned by the way aforesaid, unto the same Close of meadow called C. meadow, with his feet in walking, passed and travelled upon a certain horse, and so back again, by and from the same above newly assigned, unto the same part of the Warren aforesaid, adjoining to the several Closes aforesaid, and by and from the same part of the Warren aforesaid unto the same lane, and by and from the same unto the messuage, house or tenement

aforeſaid, by the way aforeſaid, uſing his way aforeſaid, with his feet in walking paſſed, and upon his Horſe aforeſaid returned, as to him it was lawfull, and in riding, going and returning in the way aforeſaid, in by and beyond the Cloſe aforeſaid, above of new aſſigned, the Horſe aforeſaid, the graſs in the ſame Cloſe then growing, lightly did eat and bite; as to him it was likewiſe very lawfull; And becauſe certain hedges were erected in the way aforeſaid, betwixen the ſame part of the Warren aforeſaid, adioyning to the ſeveral Cloſes aforeſaid, by the ſame Cloſe called the middle three acres, above of new aſſigned, late parcel of the Warren aforeſaid, adioyning to the ſame Cloſe called Her. by which hedge the ſame way was ſtopped up ſo, that the ſame W. from the Meſſuage aforeſaid unto the ſame Cloſe or Meadow called C. Meadow by reaſon of the ſtoppage aforeſaid, by the way aforeſaid, he could not paſſe; the ſame William in his own right a certain peece of the hedge aforeſaid, erected in the way aforeſaid for his paſſage from the ſame Meſſuage or tenement unto the ſame Cloſe called Chadmore meadow aforeſaid ſlatted; as to him it was lawfull, which ſaid breaking of the Cloſe aforeſaid, above newly aſſigned, and the graſſe therewith, the Cattell and ſcet walking, eating, treading down, and conſuming, and ſlating of the hedges aforeſaid there are the ſame breaking of the Cloſe aforeſaid, and of the graſſe there, with the Cattell aforeſaid, eating, treading down, and conſuming, & of the other graſſe aforeſaid there, with ſcet walking, treading down and conſuming, & ſlating of the hedges aforeſaid, whereof the ſame R. above againſt him complaineth; and this he is ready to verifie, whereupon he prayeth judgement, if the ſame Rich. his Action aforeſaid againſt him ought to have, &c.

And the ſame Rich. prayeth the hearing of the Indenture aforeſaid by the ſame Ed. late Earl of B. Lord R. in his life time to the ſaid William in ſozm aforeſaid made; And by the ſame VVilliam in his plea aforeſaid in bar of the new aſſignment of the ſaid Richard aforeſaid pleaded; And it is read unto him in theſe words. This Indenture made, &c. recite the whole word for word, which being read and heard; the ſame Rich. ſaith that the ſame plea of the ſame William, founded upon the Indenture aforeſaid, in manner and ſozm aforeſaid, above in bar pleaded, are inſufficient in law to bar the ſame Richard from having his action aforeſaid againſt the ſaid W. of the breaking of the Cloſe aforeſaid, and of the graſſe aforeſaid in the ſame Cloſe growing, with the cattell aforeſaid eating, treading down and conſuming, and of the other graſſe in the ſame Cloſe growing, with his ſcet in walking, the treading down and conſuming, and alſo the ſlating of the hedges aforeſaid, in the Declaration aforeſaid, above ſpecified, in the ſame Cloſe of land above, of new aſſigned done; And that he unto the ſame plea, in manner and ſozm aforeſaid pleaded, hath no need, nor by the Law of the land is held to anſwer; And this he is ready to verifie: Whereupon for defect of ſufficient plea in this behalf, the ſame R. as beſore prayeth judgement, and his damages by occaſion of the Treſpaſſe aforeſaid to him to be adjudged, &c.

And the ſame W. from whence he, &c. ſufficient matter in law to bar the ſame Rich. from having his Action aforeſaid, as to the breaking of the Cloſe aforeſaid, and the eating up, treading down and conſuming of the graſſe aforeſaid, in the ſame Cloſe growing, with the Cattell aforeſaid, and of the other graſs in the ſame Cloſe growing, with his ſcet in walking, treading down, and conſuming; and alſo the ſlating of the hedges aforeſaid in the ſame Cloſe of land above, of new aſſigned, above ſuppoſed to be done above in bar of the new aſſignment above pleaded, which ſaid matter the ſame R. doth not gainsay, nor thereunto any whit

answer, but to admit of that verification altogether refuseth, the same W. as before, prayeth judgement; and that the same Rich. from having his action aforesaid against him be barred, &c.

Count, spec.
in Trespasse
for several
Trespases,

Trespasse for eating, treading down, and consuming of grasse with Cattel, &c. and other grasse with feet walking; and in his ground there digged, and his earth, to wit 100 cart loads of earth, to the value of 10 l. thereof, cast up, took, and carried away; And also in his other ground, to wit, in two acres of land there, with certain Wheelebarrowes subverted, whereby the same Plaintiff lost the whole profit of his ground aforesaid, by a long time, to wit, by the space of one whole day then next following, and other enormities &c. dam. 40 l. &c.

The Defen-
dant pleads
tender of a-
mends in bar
the Plaintiff
replies, that
before the De-
fendant ten-
dred the a-
mends, was ar-
rested at the
sute of the
Plaintiff, and
arreared not
at the day.

The Defendant pleads in Bar tender of amends in Trespasse; And the same Plaintiff, saith that he, for any thing by the same Defendant above by pleading alleged, ought not to be barred, &c. because he saith, that before the same Defendant offered to the same Plaintiff the same 10 s. in satisfaction for the Trespasse aforesaid, for the Cattel aforesaid, to wit, in Mich. Term Anno 5. abovesaid, the same Plaintiff came here in Court of the Lord the King, before the same Lord the King here, to implead the same Defendant for the Trespasse, in the Declaration aforesaid, above specified, and for to have his remedy therein then and there, prosecuted out of the same Court of the Bench of the said Lord the King, before the same King here, to wit, at Westminster aforesaid, in the County of Middlesex, a certain writ of the said Lord the King, of Laciat, against the same Defendant, then directed to the Sherifff of S. by which writ the said Lord the King to the same Sherifff then commanded that he should take the same Defendant, if he should be found in his Bailiwick, and him safely keep, so that he should have his body before the same Lord the King, such a day, &c. to answer the same l. in a plea of Trespasse, which said writ the same H. afterwards, and before the return of the same writ, to wit, the 8. day of November, Anno Regis 5. abovesaid delivered to the same I. S. Knight, then being Sherifff of the County of S. in form of law to execute, by vertue of which said writ, the same I. S. then Sherifff of the County of S. being afterwards, and before the same time, in which, &c. to wit, the 9 day of Decemb. Anno 5. abovesaid at P. aforesaid, in the County aforesaid, the same Defendant, by vertue of the same writ took and arrested, and the same Defendant in his custody had and detained, until the same Defendant became holden, and bound to the same then Sherifff, together with R. F. and A. F. in the sum of 40 l. of lawfull money of England, for the appearance of the same Defendant before the Lord the King at Westminster, such a day, to answer to the same l. in the said Plea of Trespasse. Upon which said arrest, he the same I. intended to declare against the same Defendant for the Trespasse aforesaid; but the same Defendant at the day and place aforesaid, appeared not; but the same Defendant afterwards, to wit, upon Friday, &c. before the same Lord the King at Westminster aforesaid, at the sute of the same Plaintiff, upon the arrest aforesaid freely appeared; whereupon the same Plaintiff declared against the same Defendant for the Trespasse aforesaid, in form aforesaid; And this, &c. whereupon, &c. with this, that the same Plaintiff will verifie that the said several trespases in the Declaration aforesaid, above specified; And the Trespasse which the said Plaintiff prosecuted by his said writ of Laciat, are one and the same Trespasse, and no other, nor others, &c.

And

AND the same Defendant as to the trespasse aforesaid, as to the breaking of the Close aforesaid, and the eating, &c. cum averr. and the treading, &c. pedibus amb. above supposed to be done, saith, that the same W. before the same time in which, &c. to wit, such a day and year, &c. at S. T. aforesaid, gave liberty to the same Defendant into the tenements aforesaid with the appurtenances (of new assigned) to enter, and put in his Cattel aforesaid, the grasse in the tenements aforesaid, with the appurtenances of new assigned then there growing to eat: By vertue of which said liberty, the same Defendant the same time in which, &c. into the tenements aforesaid with the appurtenances in which, &c. entered, and his Cattel aforesaid to eat the grasse there put. And the same Cattel the same time in which, &c. by vertue of the liberty aforesaid, the grasse aforesaid in the tenements aforesaid, with the appurtenances, did eat, tread down and consume: which said breaking of the Close aforesaid, and eating, treading down and consuming of the grasse aforesaid with the Cattel aforesaid, in the tenements aforesaid with the appurtenances above newly assigned, and the treading down and consuming of the other grasse aforesaid, in the same tenements with the feet walking, by vertue of the liberty aforesaid, and for the cause aforesaid in form as aforesaid done, is the same breaking of the Close, &c. And this &c. The Plaintiff replies, de injuria propr. and traverseth the liberty. And the Defendant justifies he gave liberty, and issue thereupon,

The Defendr.
pleads in barr
liberty grant-
ed him by the
Plaintiff, to
enter and feed
his Cattel.

H. 13. Ca. rot. 2206. H. R. B. late, &c. was attached to answer I. C. of a plea wherefore, with force and Arms a certain Chest of the same I. with divers goods and Chattels to the value of 20 l. in the same, at S. late found, took and carried away, and the same Chest, until the same I. a fine with the same R. for the delivery thereof made, detained; And other wrongs, &c. And whereupon the same I. by F. G. his Attorney complaineth, that the same R. such a day and year, with force and arms, &c. a certain Chest of the same I. with divers goods and Chattels, to wit, two Petticoats, &c. to the value, &c. in the same Chest contained, at S. late found, took, and carried away. And the same Chest until the same I. a fine of 60 s. with the same R. for the delivery thereof had made, detained; And other wrongs, &c. dam. 20 l.

Trespas for
taking away
of a Chest
with goods, &c.
the same, un-
til a fine was
made for the
delivery
thereof.

AND the aforesaid R. by T. C. his Attorney comes, &c. And desires Judgement of the writ aforesaid, Because he saith that the place called B. Clo'e, and all other the Lands and Tenements in M. aforesaid, are holden of Katherine Queen of England, of her Mannor of E. in the County aforesaid, which said Mannor is of ancient Demesne of the Crown of England, And that all the Lands and Tenements of the same Mannors are, and from the time whereof there is no memory were, in the Court of the Mannor aforesaid pleadable, and not elsewhere to be pleaded; And of this, &c. whereupon he prays Judgement, if the Court of our Lord the King in this case will take cognizance of the plea aforesaid, &c.

Judgement of
the writ, for
that the Lands
are ancient
Demesne, but
not pleadable
at the Com-
mon Law.

AND the said H. says, That his said writ for the reason before alleged, ought not to be quashed. Because he saith, That the place called B. Close is, and from the time whereof there is no memory was, of the Possession of the County aforesaid, and Pleadable at the Common Law, and not in the Court of the Mannor aforesaid, as the said R. above hath alleged. And this he prays, That it may be enquired by the Country; And the said R. like wise, &c. Therefore, &c.

And

Suff. ff. **A** **P** the aforesaid T. E. by I. P. his Attorney comes and defends the force and injury, when, &c. And as to the force and arms, or any thing that is contrary to the peace of our Lord the King that now is, the said T. saith, that he is not thereof guilty: And of this he puts himself upon the Country. And the aforesaid A. likewise. And as to the redress of the trespass aforesaid, the same T. saith, that the places in which it is supposed the trespass aforesaid to be done, are in Twenty acres of Land with the appurtenances in S. aforesaid. And the said T. saith, that the Lord the King that now is, and all his predecessors Kings of England, at a certain Turn of the Sheriff once with in the Month next after the Feast of Easter, and once within the Month next after the Feast of Saint Michael the Archangel, yearly to be holden before the Sheriffs of the said County for the time being, and also of a certain yearly rent of Twenty six Shillings and eight pence, &c. called Sheribezgeild, to the said Lord the King and all his predecessors yearly, by the whole time aforesaid, by the said then Abbot and all his Predecessors, Abbots of Hyde aforesaid for the time being at B. aforesaid, that is to say, at the Turn of the Sheriff, holden before the Sheriff of the County for the time being, within the Month next after the Feast of Easter, 13 s. 4 d. And at the Turne of the Sheriff holden before the Sheriff of the said County for the time being within a Month next after the Feast of Saint Michael the Archangel 13 s. and 4 d. to be paid: Which said rent so to be paid, one W. S. late Sheriff of the County aforesaid, and all his Predecessors Sheriffs of the said County for the time being, for the whole time aforesaid, were used there to have at the same Turn twice in the year aforesaid, holden by the hands of the now Abbot of Hyde, and all his said predecessors, Farmers or Occupers of his Mannor of S. in the County aforesaid, or his Ministers there in form aforesaid for the time being, and to the use of the said Lord the King to receive, and thereupon as parcel of the great Farm, or of Forty pounds of the County aforesaid, before the Barons of the Exchequer of our Lord the King and his Predecessors did account yearly, and to the said Exchequer of the Lord the King, by the Barons aforesaid ought to be charged. And for default of payment of such rent by the aforesaid now Abbot or his predecessors, &c. for the time in form aforesaid being made, the aforesaid now Sheriff and all his Predecessors aforesaid so for the time being were used for the whole time aforesaid to distrain. And the aforesaid now A. and his predecessors &c. for the time being, for the rent aforesaid in form aforesaid being in arrear, and for every parcel thereof, in the aforesaid Mannor of S. whereof the aforesaid Twenty acres of Land are, and by all the time aforesaid were parcel, and in all other the Lands of the said A. and his predecessors, within the said R. of L. in the County aforesaid, and the same rent so in arrear being of the aforesaid A. and his predecessors aforesaid, for the time being, by distresse in the said Mannor and Lands aforesaid, by the aforesaid late Sheriff and his said predecessors so for the time aforesaid, being to take and levy, and thereof an account at the said Exchequer yearly to the said Lord the King and his predecessors in form aforesaid to render, and thereof to the said Lord the King and his predecessors aforesaid, in form aforesaid to be charged. And the aforesaid T. lastly saith, that the aforesaid now A. 13 s. 4 d. parcel of the aforesaid rent of 26 s. 8 d. at the Turn of the Sheriff holden at B. aforesaid, the 20 day of April, in and before the said T. then Sheriff of the County aforesaid to the said Lord the King now due and then payable. And also 13 s. and 4 d. residue of the aforesaid rent of 26 s. and 8 d. at the Turn aforesaid, holden there the 3. day of O. then next following, be-
fore

The Defendr.
justifies the
reason of the
rent to be paid
at the Turn
of the Sheriff,
and prays
aid of the
King, and
hath it, &c.

foze the said T. then Sheriff of the said County, to the Lord the King now due, and to him then payable, to the said T. then Sheriff hath not paid, which said sum of thirteen shillings and four pence on the aforesaid 20th. day of April in form aforesaid to be paid, and in form aforesaid being in arrear, do amount to the aforesaid 26 s. and 8 d. for which said 26 s. and 8 d. so being in arrear, the aforesaid T. Sheriff of the said County, in the aforesaid time, in which, &c. in the aforesaid 20 acres of land being open the same time, in which, &c. entred, and the aforesaid four Men in the said 20 acres of land then being, then and there did take, and them did detain, in the name of a Distresse, for the aforesaid 26 s. and 8 d. being in arrear, in form aforesaid; And afterwards the said Thomas, with the aforesaid Lord the King at Westminster, at the Exchequer aforesaid, before R. H. and his associates Barons of the said Exchequer, in 8 days of St. Hillary, in the said year of the said Lord the King, that now is the fifth, at the account of the said then Sheriff, between the said Lord the King and the said T. then Sheriff of the said Bailiwick of the said County duly assigned, hath accounted, and thereupon the said sum of 26 s. and 8 d. as parcel of the great farm, the aforesaid 40 l. then at the said account to the said Lord the King, by the Barons aforesaid being charged; And this he is ready to verifie; whereupon it is not intended, that the said Justices of our Lord the King here; for the said Lord the King thereupon should further give Counsel, or in the plea aforesaid proceed. And he desires aid of our said Lord the King, &c. and he hath it, &c. And whereupon day is given to the parties aforesaid before the said Lord the King, until from the day of St. Michael in 15 days, wheretoever, &c. the like is given to the same A. that again he follow the Law of our said Lord the King now, &c. At which said 15 days before our said Lord the King at Westminster, come as well the said A. as the said T. E. by their Attornies; And the aforesaid Lord the King sent to the Justices here his writ in these words, Edward, By the Grace of God, &c. (as in the writ of procedendo word for word) whereupon the said Thomas as to the said residue of the Trespasse above supposed to be done, saith, that the said A. his action aforesaid against him ought not to have, because, as above, he saith that the place in which, &c. as in the plea above, and this he is ready to verifie.

And the aforesaid A. saith, that he ought not to be barded, because he saith that the said Lord the King now, and all his Predecessors, kings of England, from the whole time aforesaid, from which the memory of man is not to the contrary, were not seised of the aforesaid yearly rent of 26 s. and 8 d. nor of any parcel thereof, in form as the said T. above by pleading hath alleged; And of this, &c. whereupon from which, &c. desires a judgement and damages, &c.

And the aforesaid T. saith, that our said Lord the King, now, &c. were seised, &c. in form as the said T. above by pleading hath alleged. And of this he puts himself upon the Country, &c. Therefore 12, &c.

The Plaintiff brings a Writ of procedendo and the Defendant pleads as above.

The Plaintiff replies and says that the said Lord the K. was never seised of the rent aforesaid.

Valor Maritagii.

*Valor Marita-
gii brought by
the Grantee.*

NOt. ss. I. T. Son and Heir of I. T. in mercy for moze defaults, &c. And the same Jo. the Son was summoned to answer T. R. of a plea wherefoze, whereas the marriage of the same Jo. belongeth to the Son T. R. by reason of a demise which the venerable Father Tho. late Archbishop of York, of whom the said I. T. the Father held his land by Knights service thereof made to the same T. R. And the same R. T. to the said I. the son, whilst within age, and was in his custody a competent marriage, and without disparagement. according to the form of the Statute of the Common Counsel of the King of England, thereof provided, often offered, the same I. the son refusing the same Marriage, the same Plaintiff not being satisfied of this said marriage, himself into the lands and tenements aforesaid intruded; And to satisfy the same Plaintiff for his Marriage aforesaid gainsaith, to the great damage of the said Plaintiff, and against the form of the Statute aforesaid; And whereupon the same Plaintiff by A. I. his Attorney saith; that whereas the marriage of the same Jo. the Son, belongeth to the same Plaintiff, for that the same Jo. T. the father held his land of the same Archbishop, as of his Manor of S. in the same County, to wit, one Tost by homage, fealty, and escuage of the Lord the King, of 40 s. &c. as befoze; of which services the same Archbishop being seised by the hands of the same T. P. the Father, as by the hands of the true tenant thereof; to wit, of Escuage and rent aforesaid in his Demesne, as of fee, and of homage fealty, and suite of Court aforesaid, as in fee and right. And the same I. T. the father died in the homage of the said late Archbishop, the same I. T. the Son being within the age of 21 years, to wit, of 6 years, by which the custody of the land, and heir of the same I. T. the Father, belonged to the late Archbishop; And the same Archbishop seised the land and heir aforesaid into his possession, and was possessed of the same: And being so thereof possessed the first day of Novemb. Anno &c. at S. in the County aforesaid, gave and granted to the same Plaintiff the custody of the land, and heir aforesaid, to hold to him and his assigns, unto the full age of the same heir: By pretext of which said gift and grant, the same Plt. was thereof possessed (the same I. T. the Son, whilst he was within the age of 21 years, and of the age of 14 years, and was in his custody, a competent marriage, without disparagement, according to the form of the Statute aforesaid, to wit, such a day and year at W. in the County of L. oftentimes offered, the same I. the Son, refusing the same marriage (the said Plaintiff not being satisfied for the said marriage) into the same Tost intruded, And to the same Plaintiff for his marriage hath not satisfied, to the great damage of the said Plaintiff, and against the form of the Statute; whersupon, &c. damages 100 l. And thereupon he bringeth suite, &c.

And the same I. T. the son by R. H. his Attorney cometh, & defendeth the force and wrong, when, &c. And saith that the same I. T. the Father did not hold the Tost aforesaid of the same late Archbishop, as the same T. by his Declaration aforesaid above supposeth; And of this he putteth himself upon the Country, and the same Plaintiff likewise, Wherefoze 12. &c.

Not.

NO. ff. R. R. Son and Heir apparent of T. R. was summoned to answer T. B. of a plea wherefore; whereas the marriage of the same Defendant belongeth to the same William; for that the same Thomas held his land of the same William by Knights service; And the same W. whilst he lived; And the same Executor after the death of the same William, to the same Defendant, whilst he was within age, a competent marriage, without disparagement, according to the form of the Statute, &c. thereof provided, often offered, the same Defendant refusing; for the same marriage when he now came to his full age refused to satisfy; and yet unjustly refuseth in delay of the execution of the same William, and against the form of the Statute aforesaid; And whereupon the same Executor by A. C. his Attorney saith, that whereas the marriage of the same Def. belonged to the same W. for that the same Tho. the father of the said Defendant, whose heir he is, his land, to wit, 3 acres of land with the appurtenances in D. in the County aforesaid, held of the same W. as of his Manor of F. in the same County, by homage, fealty, and Escuage of the Lord the King of 40 s. &c. And by rent of 6 d. &c. and also by service to make suite, &c. of which services the same W. was seised by the hands of the said Tho. as by the hands, &c. which said Thomas died in the homage of the said W. And the same W. in his life time, to wit, such a day and year at F. And the same Executor after the death of the same W. the same Defendant, whilst within age, to wit, of the age of 20 years, and was in the custody of the same W. in his life time; and of the same Executor, after the death of the same W. a competent marriage, to wit, Alice Daughter of R. D. without disparagement, according to the form of the Statute, &c. thereof provided, often offered; the same Defendant such a day and year at F. aforesaid refusing the same marriage; for the same marriage when he came to the age of 21 years to the same Executor, after the death of the same W. refused to satisfy; and yet refuseth unjustly, in delay of Execution of the testament aforesaid, and against the form of the Statute aforesaid; whereupon, &c. damages 40 l. &c. and he bringeth here into the Court the Letters testamentary, &c.

Value of Marriage brought by the Executor.

P. 4. E. 6. rot. 6, 61. Wigorn. ff. Iohan. H. daughter and heir of T. H. was summoned to answer I. R. Gent. of a Plea wherefore; whereas the marriage of the same Io belongeth to the same Iohn by reason of the demise which T. B. to whom H. 8. late King of England, the dear Father of the Lord the King now, demised the same Custody, of whom the said T. H. held his land by Knights service thereof made, the same Iohn a competent marriage, without disparagement to the same Iohan. whilst she was within age, and in his custody, according to the form of the Statute of the Common Counsel of England, &c. therein provided, often offered the same Io. refusing the same marriage, for the same marriage to the said Io. when now she came to her full age, refuseth to satisfy, and yet unjustly refuseth, to the damage of the said Io. of 100 marks. And against the provision aforesaid, &c. And whereupon the same Io. by I. R. his Attorney, saith, that whereas the marriage of the same Iohan. doth belong to the same I. for that the same T. H. the Father held his land, to wit, 2 parts of the Manor of H. with the appurtenances in the County aforesaid, into three parts divided, and 2 messuages, 60 acres of land, &c. with the appurtenances in H. aforesaid, of the same Lord H. late King of England, the 8. by Knight service, to wit, by the

Value of marriage by the 2 grantees of the King.

fourth

4. part of
Knights fee.

Lett. Patents.

Not informed
in Va ore Ma-
magii.

fourth part of one Knights Fee ; to wit, by homage, fealty, &c. of which services the said late King was seised by the hands of the same T. H. as by the hands of the true tenant, to wit, of the homage and fealty aforesaid, as of soc and right, and of the Ceuage aforesaid in his demesne as of soc. And afterwards, to wit, the 27th day of S. in the year of the reign of the late King 28. at S. in the County aforesaid, the said Th. died in homage of the said Lord the King, the same Johan then being within age, to wit, of the age of 5. years. By pretext whereof, the said Lord the King was possessed of the custody of the said Iohan ; And being so thereof possessed, the same late King by his Letters Patents, which the same Io. under his Great Seal of England sealed bringeth here into the Court, whose date is at Westminster in the County of Middlesex, the 8. day of May, Anno 31. granted to the same T. B. and his assigns, the custody and marriage of the same Iohan, without disparagement ; to have and to hold the custody and marriage of the same Iohan to the same T. B. his heirs and assigns, until the full and lawfull age of the same Iohan, as in the same Letters Patents amongst other things more fully appeareth. By pretext of which said Letters Patents, the same T. B. was of the custody of the same Iohan. possessed : And being so thereof possessed, the same Thomas the 23. day of April, Anno 36. of the said late King, at L. in the County aforesaid, by his certain Indenture made between the same T. B. of the one part, and the same I. R. of the other part ; which other part, with the Seal of the same T. B. sealed, the same Io. bringeth here into the Court, whose date is the same day and year, gave and granted to the same Io. amongst other things, the custody and marriage of the same Io. By pretext of which said gift and grant, the same Io. was possessed of the custody of the same Io. And being so thereof possessed the 10. day of March, Anno Regis 37. at L. in the County aforesaid, in the presence of R. P. and I. W. the same Iohan then being within the age of 16. years, and above the age of 14. years, being in the Custody of the same Iohn, a competent marriage, to wit, Richard Acton Gent. he then being of the age of 21. years, without disparagement, according to the form of the Statute of the Common Counsel, &c. thereof made, often offered. And the same Iohan refused that marriage, for the said marriage to the same Iohn when he came to the age of 16. years to satisfie refuseth, and yet unjustly refuseth, dam. 26 l. And against the form of the provision aforesaid, &c. And thereof bringeth suite, &c.

And the same Iohan, by I. G. her Attorney cometh, &c. And it is said to the said Attorney of the same Iohan, that he answer for the same Io. to the said Iohn in the plaint aforesaid. And the same Attorney saith, that he is not informed by the same Iohan his Client of any answer, &c. by which the said Iohn remaineth against the same Iohan therein without defence. For which the same Iohn the value of the marriage of the same Iohan, to wit, as much as the same Iohn could receive of any one for the same marriage, according to the form of the Statute in such case made and provided. And his damages by occasion of the marriage aforesaid, to the same I. R. not being satisfied, ought to recover ; But because it is unknown how much the value of the marriage of the same Iohan is, nor what damages the said I. R. sustained, by occasion that the same marriage was not satisfied to the same I. the Sheriff is commanded, that by the oath of honest and lawfull men of the County aforesaid, he diligently inquire, as well of the true value of the marriage of the same Iohan, to wit, of so much as the same Iohn could have received of any one for the same marriage, according to the form of the Statute aforesaid, And what damages the said Iohn sustained, as well by occasion of the marriage

riage aforesaid to the same John not satisfied; As for his costs and charges by him about his sute in this behalf laid out. And the Inquisition which, &c. the Sheriff make to appear in Crastino Trin. under the Seal, &c. And Seals, &c.

H 5. li. 3. rot. 120. P. 110. H. 8. rot. 110. M. 7. H. 8. rot. 327. M. 18. 8. 19. Eliz. rot. 144. Note, that in esement of the custody of the land of the heir, &c. And not of the Land and heir, &c. notwithstanding that the Register is terra & heredis, &c. and the Rejoinder is terra & heredis. Damages for the esement, but nothing for the marriage, because the marriage was not inquired of: As agreed by the Court Pas. 22 Eliz. in Bartlett's Case.

H 9. Cal. rot. 496. Moyle Devon ff. A. C. Gent. son and heir of G. C. Gent. was summoned to answer A. T. of a plea wherefore, whereas the marriage of the same A. B. belongeth to the same A. T. for that the same G. holdeth his Land of the same A. T. by Knights service, and the same A. T. to the same A. C. whilst she was within age, and in his custody, often offered a competent marriage, without disparagement, according to the form of the Statute, &c. as in others before. And whereupon the same A. T. by R. his Attorney saith, that whereas the marriage of the same A. C. belongeth to the same A. T. for that the same G. the Father of the same A. C. whose heir he is, held his land, to wit, 100 acres, &c. with the appurtenances called W. in K. in the County aforesaid of the same A. T. as of his Mannor of W. and C. in the County aforesaid, by homage, fealty, and esuage, &c. And by Service of doing of Sute to the Court, &c. And sheweth, that G. the Father died in homage, and tender of a competent marriage, to wit, M. E. Daughter, &c. damage 10 l. &c.

Count in Value Maritagii, to which an ancient Deed is pleaded in release of the Services.

And the same A. B. by G. L. his Attorney cometh, &c. And saith, Actio non, because he saith, that true and true it is, that the same G. held the tenements aforesaid, with the appurtenances of the same A. T. as of his Mannor of W. and C. aforesaid by Knights Service, in manner and form as the same A. T. by his declaration aforesaid above supposeth; but the same A. C. further saith, that long before the Statute De quia Emptores terr. to wit, 1. Oct. Anno 1 H. 3. one Jo. of Albemary, Lord of C. was seised of the Mannor aforesaid, with the appurtenances, whereof the tenements aforesaid, with the appurtenances are parcel, in his demesne, as of Fee; And being so thereof seised, the said Jo. afterwards at VV. aforesaid by his certain writing, which the same A. C. with the Seal of the said I. here in Court bringeth, granted to the same R. of O. Sonne of B. the tenements aforesaid, with the appurtenances, the tenor of which said writing followeth in these words, Know all men, &c. as in the writing, and the witnesses names are recited And the same A. C. further saith, that the estate of the same I. of A. in the Sovereignty of the Mannor and tenements aforesaid, with the appurtenances, now belongeth, and did belong to the same A. T. and from the time of the death of the said G. did belong. And that the estate of the same R. of C. of and in the tenement aforesaid, with the appurtenances, the same G. at the time of his death, had. And that after the death of the same G. the same A. C. Son and heir of the same G. to wit, primo Junii, Anno 8. abovesaid, at VV. aforesaid, was ready and offered, and yet is ready to pay to the same A. T. 4 s. of lawfull money of England, in his declaration for relief, Wardship, and marriage aforesaid, according to the form & effect of the writing aforesaid, which said 4 s. the same A. C. bringeth here into the court to pay the same

A Deed made before the Statute, De quia Emptores terrar. well pleaded.

A T. in the discharge of the relief, wardship and marriage aforesaid And this he is ready to verifie; whereupon he prayeth judgement, if the same A. T. against the form of the Wced aforesaid against him ought to have, &c.

And the same A. T. saith, that he ought not to be barred, &c. because he protesteth that the same I. of A. was not seised of the Mannor aforesaid, with the appurtenances whereof, &c. in his demesne as of fee, prout, &c. protesting also that the tenements aforesaid, with the appurtenances called C. in the declaration aforesaid above mentioned. And the said turlong of land and an half, and other the premises in the Wced aforesaid contained and specified, are divers and others, and not one and the same tenements; for plea the same A. T. saith, that the same Io. of B. granted not to the same R. of O. the tenements aforesaid, with the appurtenances, in manner and form as the same A. C. hath above alleged. And this he is ready to verifie; whereupon he prayeth judgement and damages, &c.

Ashley Serjeant.

And the same A. C. as before, saith that the same I. de A. granted to the same R. de O. the tenements aforesaid, with the appurtenances, in manner and form as the same A. C. hath above alleged. And of this he putteth himself upon the Countrey. And the same A. T. likewise, therefore the Sheriff is commanded to cause to come here, Odi. Pas. 12. &c.

Vtlary.

An Utlary reversed by an Administratrix which was obtained against her Intestate.

Midd. ss. It was commanded to the Sheriffs, that they omit not of any liberty in their Bayliswick, but that they take I. R. of London Merchant, Outlawed in London, on Monday next after the Feast of the conversion of St. Paul, in the year, &c. at the sute of T. B. of a plea of debt, &c. And him safe keep, &c. so that they have his body here at this day, that is to say, from the day of Easter in fifteen dayes, to doe and receive what the Court of our Lord the King here in that behalf should consider of; And now here at this day cometh E. R. widow, in her proper person; And the Sheriffs, that is to say T. F. and I. K. now return, that the aforesaid I. is not found, &c. And whereupon the said Elizabeth saith, that the aforesaid I. after the publishing of the Outlary aforesaid, against the said I. in form aforesaid made, that is to say, the first day of April, in the year, &c. at I. in the aforesaid County of Middlesex died intested, after whose death, that is to say, the 7th day of April, in the year of our Lord 1646. Administration of all the goods and chattels which were of the aforesaid I. at the time of his death at I. aforesaid, in the County of Middlesex aforesaid, by our Lord the King now to the said E. was committed; And he bringeth here in Court the Letters of Administration of the aforesaid Lord the King now, which Commission of Administration aforesaid, to the said Elizabeth in form aforesaid is witnessed. And she desires hearing of the return of the writ of Exigent, whereupon the aforesaid writ of Capias utlagat. both issue out. And to her it is read in these words, At the husing of the pleas of land holden in Cullbhall within the City of London, on Monday next after the Feast of St. Edward the King in the year of, &c. 21. the within-named I. and W. was first called, and did not appear. And at the husing of the pleas of Land holden in Cullbhall within the City aforesaid, on Monday next after the Feast of St. Andrew the Apostle

Apottle in the year abovesaid, the aforesaid I. and W. was the second time called, and did not appear; and at the husting of the pleas of land holden in Guildhall, within the City aforesaid, on Munday next, after the Feast of St. Luce the Virgin; in the year aforesaid, the aforesaid I. and W. was the third time called, and did not appear; And at the husting of the pleas of land holden in Guildhall, within the City aforesaid, on Munday next after the feast of the Epiphany of our Lord, in the year abovesaid, the aforesaid I. and W. was the fourth time called, and did not appear; And at the husting of the pleas of land holden in Guildhall, within the City aforesaid, on Munday, next after the Feast of the Conversion of St. Paul in the year abovesaid, the aforesaid I. and W. was the fifth time called, and did not appear; Therefore they are Outlawed, & either of them is outlawed: the answer of T. Fr. and I. K. Sheriffs; Which being read and heard, the said Elizabeth saith, that the Outlawry aforesaid against the said John made and published, is altogether void, and of no force, neither is of any effect in the law, for that it doth not appear by the return aforesaid, what day the husting aforesaid was held; upon which the aforesaid John by the return aforesaid, was supposed to be the third time called; so that the Outlawry aforesaid against the said John in form aforesaid made and published, for that defect and others in the return aforesaid being, is altogether void, neither is of any effect in the Law; whereupon the Sheriffs return aforesaid; and by the Justices here plainly it is seen, that the allegation of the aforesaid Elizabeth to the said Justices here was true; Therefore for that default, and others in the return aforesaid remaining; It is considered that the Outlawry aforesaid against the said John in form aforesaid published, be reversed, annulled, and made void; and of no force to be held, &c.

V Varrantia Charta.

If C. G. was summoned to answer I. B. of a plea, that he warrant unto him 2 messuages, and 40 acres of land, with the appurtenances in C. and W. which he holdeth and claimeth, to hold of him, and whereof he hath his deed, &c. And whereupon the same Plaintiff in his proper person saith, that whereas the same Defendant was seised of the tenements aforesaid, with the appurtenances in his Demesne, as of fee, and being so thereof seised by his certain Deed, which the same Plaintiff bringeth here into Court, whose date is 6. July, Anno, &c. gave, granted, and by the same Deed confirmed to the same Plaintiff the tenements aforesaid with the appurtenances, amongst other things by the name, &c. To have and to hold to the same Plaintiff his heirs and assigns for ever, and bound himself and his heirs to warrant to the same Plaintiff his heirs and assigns, the tenements aforesaid with the appurtenances against all men for ever, by the same Deed, as by the same Deed more fully appeareth; By pretext of which gift, grant, and confirmation, the same Plaintiff was seised of the tenements aforesaid, with the appurtenances, in his Demesne, as of fee; and being so thereof seised, one D. D. arraigned against him, quondam Assisam nov. Discei. of the tenements aforesaid with the appurtenances, before T. B. and I. B. Justices of the Lady the

Warr. Cart.

Confession of
the Action in
a Warr. Carr.

the Queen, assigned to take the Assizes in the County aforesaid, which said Assize depending, the same Plaintiff oftentimes requested the same Defendant, that he would warrant to the same Plaintiff the tenements aforesaid, with the appurt. Notwithstanding the same Just. hath hitherto gainsayed to warrant to the same Plt. the tenements aforesaid, with the appurt. and yet gainsayeth; Where upon he saith that he is the worse, and hath damage to the value of 20 l. and thereof bringeth sute, &c. And the same Defendant in his proper person, cometh and defendeth the force and wrong, when, &c. And saith that he cannot gainsay the aforesaid Action of the same Plaintiff, nor but that the same Deed is the deed of the same R. nor but that he by the same Deed gave and granted to the same Plaintiff the tenements aforesaid, with the appurtenances; nor but that he is held to warrant to the same Plaintiff the tenements aforesaid, with the appurtenances, in manner and form as the same Plaintiff above against him complaineth; Wherefore it is considered that the same Defendant warrant to the same Plaintiff, the tenements aforesaid, with the appurtenances, for the place and time, &c. And nothing of mercy of the said Defendant, because he came the first day upon Summons, &c.

Judgement in Warr Carr. H. *Eliz. rot. 324.* Therefore it is considered, that the same Defendant warrant to the said Plaintiff his heirs and assigns the tenements aforesaid, with the appurtenances against the same Defendant and his heirs, and against the same M. and his heirs for place and time, &c.

Warr. Carr.

T. 22. Car. rot. 97. Cory, Essex, ff. T. L. Knight was summoned to answer T. H. of a Plea, that he warrant to him one Messuage, 10 acres of Meadow, and 12 acres of Pastures, with the appurtenances in E. which he holdeth, and claimeth to hold of him; And whereof he hath his Deed, &c. And whereupon the same T. H. by W. S. his Attorney, saith, that whereas the same T. L. was seised of the tenements aforesaid, with the appurtenances in his Demesne, as of fee, and being so thereof seised, the same T. L. the 8. day of I. An. 21. Reg. by his certain Deed, which the same T. H. with the Seal of the same T. L. sealed, bringeth here into Court, whose date is the same day and year, gave and granted to the same T. H. his heirs and assigns, the tenements aforesaid, with the appurtenances, To have and to hold to the same T. H. his heirs and assigns for ever; And by the same deed the same T. L. bound himself and his heirs, to warrant the tenements aforesaid, with the appurtenances, to the same T. H. and his heirs, against the same T. L. and his heirs, and against all other persons claiming by, or under him, or them; or by, or, or under T. L. Knight, then deceased, father of the same T. L. now Defendant, and the Lady M. L. then likewise deceased, Mother of the same T. L. now Defendant, as by the same Deed more fully appeareth; by pretext of which said gift and grant, the said T. L. was seised of the tenements aforesaid, with the appurtenances in his Demesne, as of fee, And the same T. H. being so thereof seised, one Fr. F. Gent. claiming by and under the same T. L. now Defendant, arraigned against the same T. H. quodam Assis. nov. dissei. of the tenements aforesaid, with the appurtenances, before E. R. Knight, one of the Justices of the Lord the King, now here, and P. P. another of the Justices of the same Lord the King of the Common Bench, here Justices of the same Lord the King, assigned to take the Assizes in the County aforesaid, which said Assize depending, the same T. H. requested the same T. L. that he would warrant to the same T. H. the tenements aforesaid, with the appurtenances; Notwithstanding the same T. L. the tenements aforesaid, with

with the appurtenances, to the same T. H. hitherto to warrant, gainsayed, and yet gainsayeth; whereupon he saith that he is the worse, and hath damage, to the value of 500 l. And thereof bringeth suite, &c.

Waste.

H. 9. Car. rot. 230. City of Exon. ff. M. B. **W**idow was summoned to Count in
 answer I. D. Clerk, of a plea wherefore, whereas by the Common waste against
 Counsel of the Realm, of the King of England, it is provided that it shall tenant for life
 not be lawfull for any one to commit waste, sale, or destruction in any by will.
 lands, woods, or gardens to them demised for term of life, or years;
 the same M. in houses, woods and gardens in the Parish of St. D. which
 she holdeth for term of her life of the same Jo. of the assignment of G. V.
 whereof the same M. holdeth one moiety for the same term, by the as-
 signment which M. D. who the same to the said M. demised for the same
 term therein made to the same I. G. and E. as their heirs, waste, sale, and
 destruction, to the disinheriting of the said I. and against the form of the
 provision aforesaid, &c. And hereupon the same I. by I. H. his Attur-
 ney, saith, that whereas the same M. was seised of one messuage and one
 garden, with the appurtenances in the same Parish of St. D. in the
 same City of Exon. in her Demesne of fee; And being so thereof
 seised, the same M. such a day and year, at the Parish of D. aforesaid,
 made his last will and testament in writing, and by the same will gave
 and bequeathed to the said M. the tenements aforesaid, with the appur-
 tenances for term of his life, if she should solely live a Widow so long;
 And by the same will farther gave and bequeathed the reversion thereof,
 after the decease of the same M. to the same G. and E. and their heirs for
 ever; And afterwards at the Parish of St. D. aforesaid died, of such his es-
 tate therein seised, after whose death the same M. into the tenements
 aforesaid, with the appurtenances entred, and was thereof seised in his
 Demesne, as of free tenement for term of her life, if she should so live a
 Widow, so long, by virtue of the same Legacy; And the same G. and E.
 were seised of the reversion of the tenements aforesaid, as in fee and
 right, by virtue of the Legacy. The same M. so of the tenements aforesaid,
 with the appurtenances, in form aforesaid being seised; And the
 same G. and E. of the reversion thereof, as in fee and right, being seised,
 the same E. such a day and year, at the Parish of St. David aforesaid,
 by her certain writing, which the same I. D. with the seal of the same E.
 sealed, bringeth here into Court, whose date is the same day and year,
 gave and granted to the same I. the moiety of the reversion of the tene-
 ments aforesaid, with the appurtenances, as of fee and right, To have
 and to hold amongst other things to the same Jo. his heirs and assigns for
 ever, unto which said grant of the reversion aforesaid, with the appurte-
 nances; the same M. then being seised of the tenements aforesaid, with
 the appurtenances in form as aforesaid, at the Parish of St. D. aforesaid,
 assigned her self thereof to the same I. by pretext of which said gift
 and Assignment, the same I. was seised of one moiety of the reversion
 of the Tenements aforesaid, with the appurtenances, as in fee and
 right; And the same I. of that moiety so being seised; and the same G.

kkkkkk

of

of the other moiety of the reversion aforesaid, with the appurtenances in form aforesaid being seised, the same G. such a day and year at, &c. by his certain writing, which the same I. D. with the seal of the same G. signed here in Court bringeth, whose date is the same day and year, gave and granted to the same P. the said other moiety of the reversion of the tenements aforesaid, with the appurtenances, amongst other things, to have and to hold to the same I. and his heirs for ever; unto which said grant of the reversion aforesaid, the said M. then being seised of the tenements aforesaid, with the appurtenances in form as aforesaid, afterwards at the Parish, &c. likewise Attorned her self to the same I. by pretext of which said grant and Attornment, the same I. was, and yet is seised of the reversion of the whole tenements aforesaid, as in fee and right; And the same I. so being thereof seised, the same M. made waste, sale, and destruction in the tenements aforesaid, with the appurtenances, to wit, in flatting to the ground of one house called the pombo house, and one barn adjoining to the same house, containing four bays, price every bay thereof 6 l. parcel of the tenements aforesaid, with the appurtenances above demised, and so set forth the whole waste, &c. to the disinheriting of the said I. and against the provision aforesaid, whereupon he saith he is the worse, and hath damage, to the value of 80 l. and thereof bringeth lute, &c.

Although the tenements were ruinous at the time of the entry of the Tenant for life, yet he ought have pleaded the special matter and general issue.

By a Tenant who hath an estate by assignment against a Tenant for years.

And the same M. by F. G. his Attorney cometh, and defendeth the force and wrong, when, &c. and whatsoever, &c. And saith that he made no waste, sale or destruction in the tenements aforesaid, with the appurtenances, as the same I. by his writ and declaration aforesaid, above supposed; And of this she putteth her self upon the Country, and the same I. likewise, Wherefore, &c.

¶ **I** **f** **I** **W.** secure, &c. summon I. B. That whereas by the Common Counsel, &c. as above, the same I. in the Woods in B. which he holdeth for a term of years, of the demise of T. I. who held the same for the same term of the demise of I. P. and Eliz. his wife, and of I. P. son of the same I. P. and Eliz. to whom L. late Prior, &c. with the consent, &c. the same demised for the same term, from the same I. W. of the assignment of E. W. Esquire, of whom I. B. held the same for the same term of the assignment of T. M. Esquire, of whom I. B. held the same for the same term of the assignment of the Lord H. late King of England, the 8. of whom the same I. P. Eliz. and Geo. held the same for the same term by the assignment which the said late Prior, with the consent, &c. thereof made to the late King, made waste, sale, and destruction to the disinheriting of the same I. W. & against the form of the provision aforesaid, &c.

Waste against a tenant by the Court for default.

¶ **H.** 16. Eliz. rot. 949. Norf. ff. Tho. C. Gent. by C. C. his Attorney offered himself the 4. day against R. W. Gent. of a plea wherefore, whereas by the Common Counsel of the Lady the Queen of England it is provided, that it shall not be lawful for any one to make Waste, Sale, or Destruction in lands, houses, woods, or gardens to them demised for term of lives or years, or of those which are held by the courtesy of England: the same R. of houses which he holdeth by the courtesy of England, of the inheritance of the same T. in G. made Waste, Sale and Destruction, to the disinheriting of the same T. and against the form of the provision aforesaid, &c. And he came not, &c. And the Sheriff was commanded that he distrain him, &c. And the Sheriff now returneth, that he

he is distrained by his Chattels, to the value of 12. and bayled by I D. and R. R. therefore he is in mercy, &c. And hereupon the same Tho. saith, that whereas the same R. holdeth by the Courtesie of England of the inheritance of the same Thomas, one messuage, with the appurtenances, called H. in G. aforesaid, after the death of Mary, wife of the same Ra. mother of the same Tho. whose heir he is, for that the same Ra. and Mary had issue between them one I. W. the same R. made Wasse, Sale and Destruction in the houses, to wit, by suffering one house called a Carthouse, price, &c. and so the whole waste is to be assigned, to the disinheriting of the same T. and against the form of the provision aforesaid, &c. Therefore the Sheriff is commanded, that he goe in his proper person to the places wasted, and there cause to come before him 12. free and lawfull men of that neighbourhood, by whom, &c. And who are not of any affinity to the same T. C. nor to the same Ra. And by their Oath diligently inquire what Wasse, Sale or Destruction the same Ra. made in the messuage aforesaid, with the appurtenances. And the Inquisition which, &c. the Sheriff make to appear here such a return under the Seal, &c. and Seals, &c. the same day is given to the same T. C. here, &c.

Count in
waste.

Writ to in-
quire award-
ed.

If T S. Gent. secure, &c. summon H R. executor, &c. as in others, &c. the same executor of houses in Morston, which he holdeth for term of Years of the same Tho. of the assignment of Io. S. of whom the same Executor held them for the same term of the assignment of I. D. Son and heir of R D. of which said R. the same H R. held them for the same term by the assignment which R P. Son and heir of R P. which said R P. demised the same to the said W. Reve for the same term thereof to the same R. D. made Waste, &c.

Staff. II. Whereas we lately commanded you by our writ, that you should distrain H P. Gent. by all his lands and chattels in your Wap. A writ to in-
twich, that neither he, nor any for him, take them, untill you have another command therein from us; And that you should answer us of the fines of them; And that you should have his body before our Justices at Westminster, in Crast. sancte Trin. last past, to answer Geo. H. of a plea wherefore, whereas by the Common Counsel of our Realm of England it is provided, that it should not be lawfull for any one to make waste, sale, or destruction in any lands, houses, woods, or gardens to them demised for term of life or years, the same H. in lands, woods and gardens in B P. which the same Geo. demised to the same H. and A. in times past, wife to the same H. for term of the lives of the same H. and A. made waste, sale, and destruction, to the disinheriting of the same G. and against the form of the provision aforesaid, the same H. in our said Court at that day made default; so that by the Statute in such case provided, it was considered in our said Court, that he should goe in proper person unto the tenements aforesaid wasted, to wit, to 3 mess. 3 gardens, 20 acres of land, &c. with the appurtenances in B. P. &c. aforesaid, and there should enquire of the waste done in the same. And therefore we command you, as otherwise we have commanded you, that in proper person you goe to the tenements wasted, to wit one messuage, &c. with the appurtenances in C. and there cause to come before you 12 free and lawfull men of that neighbourhood, by whom the truth of the matter may be better known, and who are not of affinity either to the same G. or H. And by their Oath you diligently inquire what waste, sale or destruction, the same H. had done in the tenements aforesaid, to wit, in lopping and selling of 6 Elms, price of every one of them 5 s. and so recte the whole waste, to the disinheriting

A writ to in-
quire of waste,
by default.

Lopping and
selling.

ing of the same G. and against the form of the provision aforesaid. And the inquisition which you make thereof, you make known to our Justices at Westminster, OA. Hill. &c.

Waste, upon
Feoffment to
uses.

M. 29 & 30 Eliz. rot. 507. ff. I N. widow was summoned to answer of a plea wherefore, whereas by the Common Counsel, &c. as in others, until you come to term of years, then the same I. of houses in W. whereof H E. after the 4 day of Feb. Anno 27 H. 8. dear Father of the Lady the Queen now, infeoffed I M. W M. &c. to the use of the said H. and of the same I. then his wife, and the Survivors of them, and after the decease of the same H. and I. to the use of the right heirs of the same H. Father of the same I. whose heir he is, made waste, sale, and destruction, to the disinheriting of the said I. and against the form of the provision aforesaid.

Assignment in
waste for cut-
ting down of
Oaks, & dis-
inclosing of
the wood.

P. 9. Ja; rot 1406. ff. Of wood, to wist, in cutting and selling in a certain wood called H. parcel of the tenements aforesaid, with the appurtenances above demised, 12 Oaks, price of each of them 20 s. in the same wood late dispersedly growing, And also in suffering the springs of 2000 hazels, 2000 thorns, 3000 Alders, &c. dispersedly growing within the same wood to be cut, and the wood to be disclosed; so that for default of inclosure thereof, the Cattel did eat, and in eating did consume the branches growing from the same springs, so near the same springs, so that by the eating and consuming of such Cattel, every springs of the same hazels, thorns and Alders, and the branches growing from the same, price every of them of 12 d. were altogether withered, and dead, to the disinheriting of the same Francis, and against the form of the provision aforesaid, whereupon he saith he is the worse, and hath damage to the value of 200l. And thereupon he bringeth suite, &c.

Stipities.

Acts of waste
by two Te-
nants in
Common.

P. As. 5 Jac. rot. 1518. Cumbr. ff. T S. was summoned to answer W H. and I S. of a plea whereof, whereas the same W H. and I. hold the wood of H. in C. undividedly, the same T. in the same wood made waste, sale, and destruction, to the disinheriting of the same W H. and I. &c. And whereupon the same W H. and I. by W F. their Attorney say, that the same W H. and I. and the same Thomas doe hold the wood of H. in C. aforesaid undivided, to wist, W H. and I. of one moiety to them and their heirs, and the same Tho. of the other moiety to him and his heirs, the same Tho. in the same Wood made waste, sale and destruction, to wist, in cutting and selling of 14 Oaks, price, &c. to the disinheriting of the same W. H. and I. whereupon, &c. dam. 200 l. And thereupon he bringeth suite, &c.

A Plea by the
Tenant for
years, who
prays to be
admitted to
defer the
Action upon
the default of
the Tenant
for life.

A. 15 Pasch. ff. Now here at this day came as well the same W. B. by his Attorney aforesaid, as one W H. Gent. now tenant of the tenements aforesaid, with the appurtenances, for term of divers years yet to come, by R S. his Attorney, And saith, that before the day of purchasing of the Original writ of the same V V B. and before any waste, sale, or destruction above supposed to be done, the same U. M. widow was seised of the tenements aforesaid, with the appurtenances, in her demesne, as of free tenement for term of her life; And being so thereof seised before the waste aforesaid above supposed to be done, to wist, the 21 day of Feb. Anno Regis 3. at G. aforesaid, by her certain Indenture between the same V. of the one part, and the same Walker of the other part made, which other part with the Seal of the same V. sealed, the same W. bring-

bringeth here into the Court, whose date is the same day and year, demised to the same Walter the tenements aforesaid, with the appurtenances to have and enjoy to him and his assigns from the Feast of the Annunciation, &c. then next following, unto the end and term of three years from thence next following, and fully to be ended, if the same V. should so long live; And if the same W. H. his Executors, Administrators, or Assigns, or any of them should purpose or determine to have, hold, and enjoy the same tenements with the appurtenances for any longer time or term of years then for the same term of three years, and at any time before the Feast of St. Michael the Archangel, which should then be in the year of Lord 1630. according to the computation of the Church of England, should give or leave notice in writing of his or their purpose, intention, or determination, at or in the then dwelling house of E. H. Knight, situate and being in M. in the County of Camb. then to have and to hold the tenements aforesaid, with the appurtenances to the same W. H. his Executors, Administrators, and assigns, immediately from and after the expiration of the same term of three years above mentioned, until the end and term of 60 years then next following, and fully to be compleat and ended, if the same V. should so long live. By vertue of which demise the same Walter, in the morrow of the Annunciation, &c. next after the making of the Indenture aforesaid, into the tenements aforesaid, with the appurtenances entred, and was thereof possessed for the same term of three years in the same Indenture above mentioned; And the same VV. being so thereof possessed, the same Walter afterward, and before the said Feast of St. Michael the Archangel, which was in the year of our Lord 1630 above said, at M. aforesaid, at the said dwelling house of the same Edw. H. Knight, there gave and left notice in writing, that he purposed and was determined to have, hold and enjoy the tenements aforesaid, with the appurtenances for any longer time, and term of years, then for the same term of three years in the Indenture aforesaid above mentioned, according to the form and effect of the same Indenture, whereby the same Walter was of the same interest of the said term of 60 years, to begin after the end and determination of the said term of three years possessed. And the same VV. being so thereof possessed, the same term of three years afterwards, to wit, at the Feast of the Annunciation, &c. Anno 6. &c. ended and determined; By which the same W. was, and yet is of the tenements aforesaid, with the appurtenances for the same term of 60 years, if the same V. should live so long possessed. And the same VV. saith, that the said writ of the Waste aforesaid, in form aforesaid purchased, was lard and purchased by fraud and Covin between the same V. M. and the same VV. B. between them at G. aforesaid before had, and several defaults aforesaid upon several aforesaid, in form aforesaid, were voluntarily done by the same V. to deceive the said VValter Hill of his term of years aforesaid, of and in the tenements aforesaid, yet to come. And the same VValter prayeth that he keep the defaults of the same Ursula, in form aforesaid made, may be admitted and received to defend his right, and his term of years aforesaid, of and in the tenements aforesaid with the appurtenances yet to come, for that the tenements are his right for the same term of 60 years, if the same Ursula shall so long live. And for that the same VValter came before judgement in the same plea given, ready to answer the same VV. B. in the plaint aforesaid, and his right aforesaid for the same term of 60 years, if the same V. shall so long live, to defend, &c. and is admitted, &c. Whereupon the same VV. Baker declaring, &c.

FINIS.



A TABLE of the Principal heads contained in this Book.

<p>A Batement. Account. Annuiry. Assise. Attaint. Admeasurement. Amendment. Audita Querela. Ayell.</p>	<p>M_E fine. N_On compos mentis. P_Arco fracto. Pattent. Partition. Prohibition. Pleg. acquierand.</p>
<p>C_Ase. Challenge. Cofenage. Conspiracy. Covenant. Custody of land and heir. Communi custodia.</p>	<p>Q_Uare impedit. Quem redditum reddit. Quid juris clamat. Quod ei deforceat. Quod permittat. Quo jure exigi fac Communiam pasture. Quo warranto.</p>
<p>D_Ebt. Dower.</p>	<p>R_Escous. Replevin. Rationabili parte benox. Ravishment de Gard. Recognizance.</p>
<p>Ejectment. Error. Escheat. Estrepeement. Entry. Ejectio Custodie.</p>	<p>S_Cire facias. Second deliverance.</p>
<p>False imprisonment. False judgement. Formdon in discender. Formdon in reverter. Formdon in remainder. Forfeiture of marriage.</p>	<p>T_Respasse. V_Alor Maritagii. Utlary.</p>
<p>Information. Indempnity.</p>	<p>W_Arrantia Charta. Waste.</p>

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